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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 318, 319, 330, 340, 360, and 361

[Docket No. APHIS–2008–0011]

RIN 0579–AD75

Restructuring of Regulations on the Importation of Plants for Planting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are restructuring the regulations governing the importation of plants for planting. In the new structure, restrictions on the importation of specific types of plants for planting will no longer be found in the regulations, but instead will be found in the Plants for Planting Manual. We will make changes to the restrictions in the manual after taking public comment through notices published in the **Federal Register**. As part of this restructuring, we are grouping together restrictions in the plants for planting regulations that apply to the importation of most or all plants for planting, and we are adding general requirements for the development of integrated pest risk management measures that we may use to mitigate the risk associated with the importation of a specific type of plants for planting. We are also amending our foreign quarantine regulations to remove various provisions regarding the importation of specific types of plants for planting that are not currently subject to the general plants for planting regulations; these provisions will also be found in the Plants for Planting Manual. This action does not make any major changes to the restrictions that currently apply to the importation of plants for planting. These changes will make restrictions on the importation of specific types of plants for planting easier for readers to find and less cumbersome for us to change.

DATES: Effective April 18, 2018.

FOR FURTHER INFORMATION CONTACT: Dr. Shailaja Rabindran, Assistant Director, Plants for Planting Policy, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737; (301) 851–2167.

SUPPLEMENTARY INFORMATION:

Background

Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture is authorized to take such actions as may be necessary to prevent the introduction and spread of plant pests and noxious weeds within the United States. The Secretary has delegated this authority to the Administrator of the Animal and Plant Health Inspection Service (APHIS).

The regulations in 7 CFR part 319 prohibit or restrict the importation of plants and plant products into the United States to prevent the introduction of plant pests that are not already established in the United States or plant pests that may be established but are under the official control of an eradication or containment program.

The regulations in ''Subpart—Plants for Planting,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), restrict the importation of plants for planting. The term *plants for planting* is defined in § 319.37–1 as ''plants intended to remain planted, to be planted or replanted.'' *Plant* is defined in that section as ''any plant (including any plant part) capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.''

On April 25, 2013, we published in the **Federal Register** (78 FR 24634–24663, Docket No. APHIS–2008–0011) a proposal [1] to revise the plants for planting regulations and make several related changes to the foreign quarantine notices in 7 CFR part 319. Briefly, we proposed to do the following:

- Remove provisions from other subparts in 7 CFR part 319 that regulate the importation of plants for planting and thus consolidate the requirements for importation of all plants for planting under the plants for planting regulations.
- Add most of the plants for planting that are listed as prohibited in § 319.37–2(a) to the list of plants for planting whose importation is not authorized pending pest risk analysis (NAPPRA) in accordance with current § 319.37–2a. We proposed to characterize the other prohibitions as restrictions, rather than prohibitions, and to list them as such in the Plants for Planting Manual. This manual is currently used by importers and inspectors as a reference regarding restrictions on the importation of plants for planting.
- Within the plants for planting regulations, group together the requirements that apply to the importation of all or most plants for planting.
- Move restrictions on the importation of specific types of plants for planting from the regulations to the Plants for Planting Manual. We proposed to revise how we change these restrictions. We proposed to publish a notice in the **Federal Register** announcing our determination that it is necessary to add, change, or remove restrictions on the importation of a specific type of plants for planting and make available a document describing those restrictions and why they are necessary. We would allow for public comment on the notice and the document it makes available. We would then respond to any comments we receive in a second notice published in the **Federal Register**, and implement the restrictions if our determination remains unchanged.
- Remove several lists of approved items (for example, the lists of approved growing media, packing materials, and ports of entry) from the regulations and instead provide these lists to the public in the Plants for Planting Manual. We proposed to update these lists, when necessary, using the same double-notice process we are proposing to use to update restrictions on the importation of specific types of plants for planting.
- Establish a framework for the use of integrated pest risk management measures (IPRMM) in the production of specific types of plants for planting for importation into the United States, when the pest risk associated with the importation of a type of plants for

[1] To view the proposed rule, extensions of comment period, supporting document, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2008-0011.*

planting can only be addressed through the use of integrated measures.

• Make several minor changes to the regulations to improve their clarity and reflect current program operations.

We did not propose to make major changes to the restrictions that currently apply to the importation of plants for planting. The proposal was directed towards making the regulations easier to use and to implement.

Comments on the proposed rule were required to be received on or before June 24, 2013. We reopened and extended the deadline for comments until September 10, 2013, in a document published in the **Federal Register** on July 12, 2013 (78 FR 41866–41867, Docket No. APHIS–2008–0011). We reopened and extended the deadline for comments a second time, until January 30, 2014, in a document published in the **Federal Register** on December 31, 2013 (78 FR 79636–79637, Docket No. APHIS–2008–0011). In the latter document, we asked specifically for comments regarding whether to base the framework for the use of IPRMM on regional or international standards. We also asked for specific comments regarding the risk posed when plant brokers purchase and move plants for planting after they leave their place of production and before they are exported to the United States.

We received 17 comments by the January 30, 2014, close of the comment period. They were from producer organizations, State departments of agriculture, a foreign national plant protection organization, an environmental protection organization, and private citizens. They are discussed below by topic.

Scope of the Proposed Rule

Two commenters expressed concern about the length and complexity of the proposed rule, stating that it should have been broken into separate, smaller regulatory actions.

Many of the changes in the proposed rule were dependent on each other, and making one or two at a time would have left the regulations in an unsettled state. In addition, proposing the changes in separate chunks would have made the overall process of restructuring the regulations take much longer.

Plants for Planting Manual

One commenter stated that the updated Plants for Planting Manual should be made available for review prior to the publication of the final rule.

We will make the updated manual available upon the effective date of the final rule. Making it available earlier, when the final rule is not effective and the current version of the manual is still in use, could create confusion.

Another commenter stated that navigation of and access to the manual should be as open and easy as possible, and that stakeholders should be notified of changes.

We agree. As part of this regulatory process, we have undertaken a wholesale revision of the Plants for Planting Manual to make it easier to use. The new version of the manual will be maintained at *https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf.* Stakeholders can keep abreast of updates to the Plants for Planting Manual through the APHIS Stakeholder Registry; interested parties can sign up for email notifications at *https://public.govdelivery.com/accounts/USDAAPHIS/subscriber/new.* Finally, whenever we determine that we need to add, change, or remove phytosanitary restrictions in the Plants for Planting Manual to address the risk posed by imported plants for planting, we will publish a notice in the **Federal Register** requesting public comment.

Consolidation of Plants for Planting Provisions

We proposed to move provisions from other subparts in 7 CFR part 319 that regulate the importation of plants for planting and consolidate all requirements for importation of plants for planting in a single location.

One commenter requested clarification on whether we were limiting the plants for planting regulations to cover only some plants for planting, or whether we were clarifying that plants for planting rules do not apply to plants not for planting.

We are neither limiting the plants for planting regulations nor clarifying as the commenter suggests, but rather making sure that all plants for planting are imported in accordance with the plants for planting regulations. Subparts of 7 CFR part 319 not specifically about plants for planting had contained some provisions regulating plants for planting. For example, the sugarcane regulations in § 319.15 regulate the importation of all sugarcane plants and plant parts, whether they are for planting or not.

We proposed to remove provisions in those other subparts that applied to plants for planting and put them in the Plants for Planting Manual or to change those subparts to explicitly indicate that they did not apply to plants for planting, when applicable. For example, we proposed to amend the subpart regulating the importation of cut flowers in 7 CFR part 319 to explicitly indicate that such flowers must not be for planting.

One commenter stated that inspectors should keep the possibility of planting in mind when conducting inspections.

We agree. The definition of *plant* in this final rule includes any plant or plant part that is capable of propagation. This definition affords our inspectors discretion to determine whether a plant or plant part that is capable of propagation and offered for importation should be considered a plant for planting.

Definitions

We proposed to retain many of the current definitions in § 319.37–1 and add a few new ones. We received comments on three of these definitions.

The definition of *from* specifies that an article is considered to be ''from'' any country or locality where it was grown, with exceptions for articles imported to Canada and subsequently re-exported to the United States under certain conditions. These conditions are specified in subparagraphs (1) through (4) of the definition. We proposed to change the terminology in the definition to reflect the proposal but did not propose any substantive modifications.

One commenter asked that we further clarify current subparagraph (3) in the definition of *from.* Under this subparagraph, to be considered from Canada, an article must not have been grown in a country or locality which would subject it to postentry quarantine in the United States, unless it was grown in Canada under equivalent postentry quarantine conditions. The commenter understood this provision to mean that such articles would be subject to two post-entry quarantines, one in Canada following importation from the country in which it was grown, the other in the United States following importation from Canada. The commenter stated that if Canada and the United States fully harmonize their postentry quarantine requirements, the article should be allowed to be imported directly from Canada into the United States, without a second postentry quarantine.

We agree. Should such harmonization occur, we will initiate rulemaking accordingly.

With respect to current paragraph (4) in the definition of *from,* which requires plants for planting to not be imported in growing media in order to be considered ''from'' Canada, another commenter stated that we should allow the importation of plants for planting produced in APHIS programs for the importation of plants in growing media but imported into Canada before

movement to the United States to be considered ''from'' Canada.

We understand the commenter to be referring to plants in growing media that are produced in one of two manners: Either (1), the plants have been grown in the United States, exported to Canada for finishing, then subsequently offered for importation back into the United States, or (2), the plants have been produced in a third country under conditions that would make the articles eligible for importation into the United States, exported to Canada, then subsequently offered for importation into the United States. With regard to the first class of articles, we are currently in discussions with the national plant protection organization (NPPO) of Canada regarding the importation of such articles into the United States, and will take appropriate follow-up action based on this dialogue.

With regard to the second class of articles, our evaluation will be on a case-by-case basis based on the safeguards applied to the articles within Canada.

We proposed to establish a new definition of the term *place of production.* The proposed definition indicated that the term may include ''a production site that is separately managed for phytosanitary purposes.'' One commenter stated that we should modify this definition to be consistent with the definition in International Plant Protection Convention's (IPPC) Glossary of Phytosanitary Terms,[2] which refers to multiple production sites.

We based our proposed definition on the IPPC definition; the inconsistency was inadvertent. We have corrected the definition in this final rule.

We proposed to define *plants for planting* as: ''Regulated plants (including any plant parts) that are for planting or capable of being planted.'' This proposed definition differs from the IPPC definition of that term. One commenter suggested that IPPC signatories, such as the United States, should use the IPPC definitions, or submit proposed revisions to those definitions to the IPPC.

Although we intended to use a version of the definition of *plants for planting* not substantively different from the IPPC's, the definition in our proposed rule did not include the intended use of the article. After reviewing our proposed definition in light of the commenter's concerns, we determined that the IPPC definition, ''plants intended to remain planted, to be planted, or replanted,'' emphasizes the intended use of the article, and that this is an important distinction. Intended use has long played a role in our determining whether a specific article is a plant for planting; for example, it is our basis for determining whether to regulate a commercial consignment of potato tubers, which are articles capable of propagation, as plants for planting. Accordingly, in this final rule, we have decided to use the IPPC definition of *plants for planting,* which had been in the previous regulations.

Moving Prohibited Taxa to the NAPPRA Category

In § 319.37–2 of the regulations, paragraphs (a) and (b) currently list several taxa of plants for planting as prohibited. We proposed to remove these lists from the regulations and add most of these taxa to the NAPPRA lists.

One commenter asked for clarification on what plants or groups of prohibited plants would not be added to the NAPPRA lists.

The NAPPRA category lists taxa of plants for planting that are not authorized for importation pending pest risk analysis, as well as the parts of those plants that are subject to NAPPRA. We proposed to add those taxa listed in § 319.37–2 as prohibited articles to the NAPPRA list if they were listed in § 319.37–2 without any additional conditions. Some of the prohibited taxa in § 319.37–2 had additional conditions regarding their prohibited status, *e.g.,* the articles were prohibited importation only if they were a certain size or age, or only if they were imported in pulp. Those prohibitions can more accurately be characterized as restrictions on the importation of plants for planting, rather than outright prohibitions. Accordingly, we are characterizing them as such and moving the restrictions to the Plants for Planting Manual.

One commenter asked how the proposal to add the prohibited taxa to the NAPPRA list would affect any pest risk analyses (PRAs) that had been done for the taxa. Another asked why we chose to add the prohibited taxa to the NAPPRA category given that PRAs have presumably already been done for these plants, and their pest risk considered such that we prohibited their importation into the United States.

To answer the former commenter, any new PRAs conducted regarding taxa on the NAPPRA list supersede previously conducted PRAs.

To answer the latter commenter, although pest risk information led us to prohibit the importation of the taxa listed in § 319.37–2, this information may change. For example, a foreign country may undertake eradication efforts to combat a particular pest, or new measures may become available to mitigate the risk associated with the pest. Additionally, the quarantine significance of a particular pest may be reevaluated based on new scientific information, or the introduction and dissemination of that pest within the United States. Adding the prohibited taxa to the NAPPRA category allows us to reexamine the risk in light of these possible changes.

Rather than simply add the current prohibited taxa to the NAPPRA category, one commenter asked that we propose to add the taxa to the NAPPRA category through an additional regulatory action and opportunity for public comment.

We do not believe it would be appropriate or necessary to request additional public comment on the addition of prohibited taxa to the NAPPRA list. When we added those taxa to the prohibited list based on their quarantine pest risk, we took public comment through the rulemaking process. Additionally, we afforded the public an opportunity to comment on the addition of the taxa to the NAPPRA list during the comment period associated with the proposed rule.

One commenter asked where information about the taxa of plants for planting that are NAPPRA would be found. Specifically, the commenter asked whether the information would be maintained both on the Plants for Planting website and in the Plants for Planting Manual.

The information will be maintained solely in the Plants for Planting Manual; the Plants for Planting website will indicate this and link to the manual. Maintaining the list in two different places could result in discrepancies between the two lists. We have reformatted the lists based on this decision to move them to the Plants for Planting Manual.

Previously, we had maintained two NAPPRA lists on the internet, one of taxa that we have determined to be quarantine pests and another of taxa that we have determined to be hosts of a quarantine pest. In adding the NAPPRA taxa to the Plants for Planting Manual, however, we discovered that a clearer and more user-friendly format was simply to list all NAPPRA taxa alphabetically in one list. As such, we have made a slight change to proposed paragraph (a) of § 319.37–4. The paragraph had stated that there are two lists of NAPPRA plants for planting. It

[2] International Standard for Phytosanitary Measures (ISPM) No. 5. To view this and other ISPMs on the internet, go to *http://www.ippc.int/* and click on the ''Adopted Standards'' link under the ''Core activities'' heading.

now indicates that there are two categories of NAPPRA plants for planting.

Permits

We proposed to move the current permit requirements from § 319.37–3 to § 319.37–5 and make a few changes. One of the changes we proposed was to change how the current permit requirements are presented. Rather than indicate which lots of plants for planting must be imported with a permit, we proposed to indicate that all lots of plants for planting must be imported with a permit, with exceptions listed in the Plants for Planting Manual.

One commenter stated that the new proposal appeared to require permits for all plants, while the previous regulations exempted lots of 13 or fewer plants. The commenter requested further explanation and the opportunity for public comment on this change. Another commenter supported what the commenter believed was our proposal to require permits for lots containing 12 or fewer plants. The regulations exempted, among other things, lots of 13 or more plants from the permit requirement if they are composed of seeds of herbaceous plants, precleared bulbs of a taxon approved by APHIS for preclearance, or sterile cultures of orchid plants. One commenter stated that bulbs should not be required to be accompanied by a permit, and asked us to confirm that existing bulb import programs (which do not involve the issuance of permits) would remain in place.

We did not propose to remove or otherwise alter any exemptions from permitting for plants for planting. We merely proposed to move the exemptions from the regulations to the Plants for Planting Manual. We believe the Plants for Planting Manual affords us an opportunity to present the exemptions more clearly, and in a manner that is more accessible to the general public.

The requirement that lots of 13 or more plants be accompanied by a permit also exempted lots of any size if they were from Canada. One commenter asked whether we should continue to allow plants to be imported from Canada without a permit, as this could leave a substantial gap in our information about what plants we import and where they are from. The commenter noted that 95 percent of imported woody shrubs and trees come from Canada.

The exemption is long-standing and has not resulted in the introduction of quarantine plant pests into the United States. Removing it in the absence of demonstrable quarantine plant pest risk is not justified.

One commenter stated that the new regulations should reflect the adoption of controlled import permits (CIP).

We agree. After the proposed rule to revise the plants for planting regulations was published, we published a final rule on May 2, 2013 (78 FR 25565–25572, Docket No. APHIS–2008–0055) establishing provisions in a new § 319.6 for the issuance of CIPs for articles otherwise prohibited or restricted from importation, including plants for planting. The May 2013 final rule made several changes to the plants for planting regulations as part of establishing the CIP provisions. We are incorporating most of those changes into the revision of the plants for planting regulations in this final rule, and have made corresponding changes to proposed §§ 319.37–1, 319.37–4, 319.37–5, and 319.37–23.

We are not incorporating one provision of the final rule that implemented CIPs, which required plants for planting imported into postentry quarantine to be accompanied by a CIP. When we implemented that final rule, we discovered that it had inadvertently changed the regulatory status of plants for planting that are subject to postentry quarantine from restricted articles to prohibited articles. This caused significant confusion among stakeholders, and had the unintended effect of significantly restructuring our postentry quarantine programs by exempting plants for planting intended for postentry quarantine from the general requirements of the regulations. As a result, operationally, we have not required CIPs for plants for planting intended for postentry quarantine for several years.

One commenter made the general comment that permits should only be required when the importation of the plant is prohibited or allowed under certain prescribed conditions. For other plants for planting that are allowed entry, import requirements should be communicated in a general manner to exporting countries to allow NPPOs to process and distribute the information to their inspectors as well as their stakeholders.

When we consider the plant pest risk associated with the importation of plants for planting, we must consider both the risk posed by the articles and the risk posed by the person importing the articles. Requiring prospective importers to apply for a permit allows us to deny or revoke permits to applicants who have failed to honor APHIS plant import regulations in the past or who otherwise appear to pose a risk of noncompliance. We discuss this at greater length in a final rule that we published in the **Federal Register** (79 FR 19805–19812, Docket No. APHIS–2011–0085) on April 10, 2014. That rule amended, among other things, the conditions under which plants for planting permit applications are denied within APHIS.

On a related matter, the April 2014 rule also amended the conditions under which plants for planting permits are revoked within APHIS. Those amended conditions are retained in this final rule.

Phytosanitary Certificates

We proposed to move the requirements for phytosanitary certificates from § 319.37–4 to § 319.37–6. In moving them, we proposed to remove three paragraphs in current § 319.37–4 that describe programs under which a phytosanitary certificate is not required, and replace them with general standards that encompass these three current programs and allow for the development of future programs. Specifically, we proposed to state that that the Administrator may authorize the importation of some types of plants for planting without a phytosanitary certificate if the plants for planting are accompanied by equivalent documentation agreed upon by the Administrator and the NPPO of the exporting country as sufficient to establish the origin, identity, and quarantine pest status of the plants.

One commenter stated that the requirement to identify place of origin on documentation that substitutes for a phytosanitary certificate would be unworkable in the context of the Canadian greenhouse certification program, which had been set out in paragraph (c) of § 319.37–4. The commenter pointed out that, under that program, Canadian producers were not currently required to document the origin of the plants exported under this program. Implementing this change, the commenter stated, would create a new administrative burden for program participants.

It was not our intention to create new burdens for participants in this program, but rather to put in place general language that could encompass all the current and future programs under which phytosanitary certificates are not required.

In this final rule, we are changing proposed § 319.37–6 to indicate that the Administrator may authorize the importation of types of plants for planting without a phytosanitary certificate if the plants for planting are accompanied by equivalent

documentation agreed upon by the Administrator and the NPPO of the exporting country as sufficient to establish the eligibility of the plants for importation into the United States. We believe this will accommodate the Canadian greenhouse-grown plant program and address the commenter's concern.

Marking and Identity

We proposed to move § 319.37–10, which contained requirements for marking and identity of imported plants for planting, to proposed § 319.37–7 and make minor changes to it.

One commenter noted that proposed § 319.37–7(a) would require any imported plants for planting to be marked with the number of the written permit authorizing the importation, if one was required. The commenter stated that it was unclear whether every individual plant would have to be marked or if the mark applied to the whole consignment of plants. The commenter expressed concern about the administrative burden that would result if each individual plant were required to be marked, and asked for clarification.

We intend for each consignment of plants for planting to be marked with the permit number, not each individual plant. We have changed the text of § 319.37–7 to reflect this.

One commenter stated that some requirements in the section appeared to be new. The commenter recommended that the requirements be moved to the Plants for Planting Manual, since they are modified by the ports from time to time, in recognition of changing trade and shipping patterns and to improve the inspection process.

Except for some terminology changes, the requirements in proposed § 319.37–7 were identical to current § 319.37–10, which has been in place for decades. We are not aware of these requirements being modified at the ports of entry; they represent a minimum amount of information that should be conveyed about every consignment of plants for planting for the purposes of identification and, if a pest is found at port-of-entry inspection, for traceback.

Ports of Entry

The regulations governing ports of entry for imported plants for planting were found in § 319.37–14. We proposed to move them to § 319.37–8 and make some changes. The regulations had stated that any regulated article required to be imported under a written permit pursuant to § 319.37–3(a)(1) through (6) must be imported or offered for importation at a U.S. Department of Agriculture (USDA) plant inspection station. We proposed to indicate instead that any plants for planting required to be imported under a written permit pursuant to proposed § 319.37–5(a), if not precleared, may be imported or offered for importation only at a USDA plant inspection station listed in the Plants for Planting Manual.

One commenter noted that the proposed provision did not precisely parallel the previous regulations, in that the current language only requires certain plants for planting that must be imported under a written permit to enter at a USDA plant inspection station, while the proposed language would have required all plants for planting that must be accompanied by a permit to enter at a USDA plant inspection station. The commenter stated that the revised regulations should be consistent with the previous regulations.

We agree with the commenter. We had intended to propose language substantively identical to the scope of the previous requirements, which had required plants for planting that must be imported under a written permit, if not precleared, to be imported or offered for importation only at a plant inspection station, with limited exceptions. Our intent was not to remove any of these exceptions.

Accordingly, we have revised the proposed language to state that any plants for planting required to be imported under a written permit in accordance with § 319.37–5(a), if not precleared, must be imported or offered for importation only at a plant inspection station, unless the Plants for Planting Manual indicates otherwise. The Plants for Planting Manual will list the conditions under which an imported plant for planting does not have to be offered for importation at a plant inspection station. This change will preserve the status quo while allowing more flexibility to change these conditions in the future should a change be warranted.

Growing Media

Proposed § 319.37–10 set out requirements for the importation of plants for planting in growing media. It was based on previous § 319.37–8, but we proposed to revise the current regulations to move restrictions on the importation of specific types of plants for planting from the regulations to the Plants for Planting Manual and to add a notice-based process for updating the list of approved growing media.

One commenter expressed concern that our proposed regulations did not specifically allow the importation of plants for planting grown in agar or agar-like tissue culture medium. The commenter asked us to confirm that no new restrictions are part of this revision with respect to plants for planting that are currently allowed into the United States in agar or agar-like growing media.

We did not propose to make any changes to the current provisions regarding the importation of plants for planting in agar or agar-like growing media; we simply proposed to move them to the Plants for Planting Manual.

One commenter asked that we change the current restrictions to allow the importation of tissue culture plants that have been produced in completely sterile conditions but are contained in sterile peat, rather than in transparent agar or other tissue culture media.

As we did not propose to make any changes to the current restrictions on the importation of plants for planting in growing media, making such a change would be outside the scope of this final rule. However, the changes we are making in this final rule will allow for more timely addition of this exemption to the Plants for Planting Manual, should we determine that the requested change is warranted.

Streamlined Process for Changes To Import Restrictions

Several commenters had questions about the streamlined process we proposed in § 319.37–20 for making changes to the Plants for Planting Manual.

One commenter asked to confirm that the process will apply to requests from foreign trading partners seeking to export new types of plants for planting in growing media to the United States.

The process will be used to make all changes to the restrictions on the importation of specific types of plants for planting, including importation of any specific type of plants for planting in growing media.

One commenter expressed concern regarding whether changes to the Plants for Planting Manual would be readily evident to stakeholders. The commenter also asked that sufficient time be provided for comments from stakeholders, and inquired whether there will be additional notification through the PPQ Stakeholder Registry to advise stakeholders of changes. Another commenter stated that it is the commenter's understanding that the comment period will typically be 60 days.

The second commenter is correct. We will typically provide for a comment period of 60 days on notices to change restrictions in the Plants for Planting Manual, and we have the option of

extending the comment period upon request. We will provide notice of all changes we propose and all changes we make to the Plants for Planting Manual through the Stakeholder Registry.

One commenter expressed concern that making it easier to propose to change the requirements for importing specific types of plants for planting could result in a very large number of proposals being posted at one time, overwhelming a stakeholder's resources to respond by posted deadlines. The commenter asked how the process will be managed to facilitate stakeholder input.

Stakeholders will still have the opportunity to submit comments on proposed changes. Making the restrictions on the importation of planting for planting easier to update may result in more updates, but we hope that they will also be smaller in scope than our periodic amendments to the regulations have been. Wherever possible, we will avoid requesting comment on many actions at once. We also have the option of extending comment periods if stakeholders indicate they are unable to provide input on any changes within the initial comment period.

Integrated Pest Risk Management Measures

We proposed to set out a framework for the development of integrated pest risk management measures (IPRMM) for the importation of plants for planting in § 319.37–21. The framework covered pest management and traceability at the place of production; administration of the program by APHIS and the NPPO of the supporting country; the responsibilities of plant brokers; audits of the program; and actions to take in case of noncompliance.

In the past, we have referred to these programs as ''systems approaches.'' We stated in the proposed rule that the term ''integrated pest risk management measures'' in the plants for planting regulations is consistent with the North American Plant Protection Organization's (NAPPO) Regional Standard for Phytosanitary Measures (RSPM) No. 24 and ISPM No. 36 and industry terminology. The term also emphasizes the fact that such programs involve multiple measures, each of which plays a necessary part for a comprehensive approach to managing pest risk.

One commenter stated that IPRMM were not defined as being composed of multiple separate measures that act synergistically to mitigate plant pest risk. The commenter stated that the elements of separate action and synergistic effects have long been a foundational principle of systems approaches. The commenter asked that we state explicitly in the regulations that the agency will incorporate the elements of separate action and synergistic effects into its requirements for integrated pest risk management programs.

In an IPRMM, every measure may be necessary to prevent the plants from being infested by a particular pest, rather than the measures having separate, synergistic effects as in a classic systems approach. The program for production of *Pelargonium* and *Solanum* spp. free of *Ralstonia solanacearum* race 3 biovar 2, which had been specified in § 319.37–5(r)(3) of the plants for planting regulations, is an example of an IPRMM; each of the production practices in the paragraph must be followed or there will be a significant risk of introduction of the pathogen into the production site. Therefore, although some IPRMM are likely to incorporate the effects of separate action and synergistic effects, it would be inappropriate to state that we will incorporate these into every IPRMM. However, where we can achieve such effects, we will consider them as we design our programs.

The proposed rule stated that we would require plants for planting to be imported in accordance with IPRMM when appropriate. Several commenters asked for further information about when we might consider IPRMM appropriate for the importation of plants for planting and whether we would require them for every type of imported plants for planting, or if there would be exceptions. One commenter asked whether certain host/pest associations would be subject to IPRMM, and stated that they seemed to be most valuable for asymptomatic, cryptic, or seasonally symptomatic pests and pathogens.

Other commenters made recommendations about when we should employ such measures. One stated that they should be employed for all plants for planting to maintain a high level of protection. Two commenters stated that other mitigation strategies may be appropriate, depending on the circumstances.

We did not intend that IPRMM would be used for all imported plants for planting. Such measures, properly implemented, can provide a high level of protection against pests that are otherwise difficult to detect or that pose a high risk. However, an IPRMM approach is not necessary for all types of imported plants for planting. For plants for planting covered by the inspection and certification program that had been found in § 319.37–5(a), for example, a simple inspection is sufficient to assure freedom from quarantine pests.

Our goal is to establish the least restrictive measures for the importation of plants for planting that will prevent the introduction of quarantine pests into the United States. The IPRMM framework described in proposed § 319.37–21 is a means to achieve that goal, but it will not be the only means we use.

In response to these comments, we have changed the introductory text of proposed § 319.37–21 to indicate that IPRMM will be developed when such measures are necessary to mitigate risk.

We stated in the proposed rule that our IPRMM framework was based on RSPM No. 24 and was consistent with the IPPC's ISPM No. 36, both of which address plants for planting.

One commenter supported basing our proposed measures on RSPM No. 24. Other commenters stated that they should be based on ISPM No. 36. Those commenters stated that using the international standard would make it easier for growers and exporters to adopt and meet a single standard that is applied globally. They also favored the approach of ISPM No. 36, which incorporates some general baseline measures for growing plants for planting and offers the ability to develop pest-specific measures should they prove necessary. One of these commenters stated that the RSPM is far more specific in its requirements than the ISPM, and that the specificity is not appropriate and will not encourage participation. The minimal components that are part of the general standards in the ISPM, this commenter stated, would encourage producers to adopt the measures; the RSPM has the potential to be complex and burdensome on growers.

We believe that some of these comments may have arisen from confusion about the applicability of IPRMM. We would only require plants for planting to be imported under these measures if the risk warrants it; these will not be general requirements for exporting plants for planting to the United States.

In that sense, our regulatory approach is similar to that of ISPM No. 36. As revised by this final rule, the regulations will contain general standards for the importation of plants for planting, and restrictions on the importation of specific types of plants for planting will be found in the Plants for Planting Manual. The framework in § 319.37–21 is simply one way we plan to address the risks associated with specific types of imported plants for planting.

One commenter noted that the NAPPO Plants for Planting Panel that authored RSPM No. 24 subsequently compared the NAPPO and IPPC standards and recommended the following: ''In light of the many similarities with ISPM 36, maintaining RSPM 24 may well cause confusion for NAPPO countries trying to implement both standards and [we recommend] that RSPM 24 not be maintained.''

The quote provided by the commenter is correct. However, the comparison document was not the final word from NAPPO but was intended to be the subject of further discussion. In fact, NAPPO made the decision to maintain RSPM No. 24, incorporating references to ISPM No. 36.[3] The RSPM was most recently revised in August 2013. As the document noted, the two standards are very similar, but the NAPPO Plants for Planting Panel concluded that the differences were significant enough to maintain two separate standards.

One commenter stated that we should pilot ISPM No. 36 with high-volume plants for planting trading partners as the first step in reducing the largely unmitigated risks of such trade.

As stated earlier, we only intend to require IPRMM in response to an identified pest risk. However, we believe the general practices in ISPM No. 36 are baseline practices for anyone who wishes to maintain a successful plants for planting production facility.

One commenter stated that we should indicate in the regulations that we will rely on the Annex to ISPM No. 36 when evaluating pest risk and on section 2.2.1.2 and Appendix 1 to the standard in developing mitigation measures.

We do not believe specific references in the regulations to these sections of ISPM No. 36 are necessary. As a signatory to the IPPC, we are committed to taking actions that are consistent with any relevant ISPMs. In addition, the specific sections of the ISPM may change or be removed, meaning we would have to change our regulations to reflect that. One goal of this rulemaking is to reduce the number of changes we have to make to keep the regulations current so including references to specific sections of the ISPM would be counterproductive.

One commenter noted two differences between ISPM No. 36 and RSPM No. 24:

- ISPM No. 36 does not exclude plants as pests, while RSPM No. 24 does.
- ISPM No. 36 excludes seeds from consideration, while RSPM No. 24 does not.

The commenter expressed openness to including plants as pests in IPRMM, and felt that seeds should be excluded.

The aim of IPRMM is to prevent the introduction of quarantine pests via the importation of plants for planting. A plant that was itself a quarantine pest could not have measures applied to it to prevent it from being a quarantine pest, meaning that it is appropriate to exclude pest plants from IPRMM. However, if we identify a seed-borne pathogen as a pest, we may need to develop IPRMM to ensure that the pathogen is not present in imported seed. Therefore, we are making no changes in response to these comments.

One commenter encouraged us to implement IPRMM so that any enterable type of plants for planting grown under those measures will also be allowed entry into the United States in approved growing media. The commenter pointed out that it is currently our policy to conduct pest risk assessments each time a country requests authorization to import a taxon of plants for planting in approved growing media into the United States, even if the same taxon is already authorized importation into the United States, if it is bare-rooted. The commenter stated that, after the final rule has been published, a pest risk assessment for every new plant and growing media combination should not be a mandatory requirement anymore, and that instead an approved IPRMM system will allow a currently enterable plant to be imported in growing media.

As plants in growing media pose different risks than plants not in growing media, we will continue to consider the risk they pose separately. We would need to identify the pests that could be introduced in growing media and develop separate mitigations for them, as we do now. However, we are open to the possibility of IPRMM for plants in growing media that could address all types of quarantine pests that could be associated with a type of plants for planting.

One commenter asked us to establish clear criteria for the approval of IPRMM so that the NPPO of an exporting country, along with the NPPO's stakeholders, can evaluate whether a proposed use of IPRMM will be feasible. The commenter noted that the proposed rule did not specify a timeframe for the approval process for IPRMM.

We will develop IPRMM in consultation with foreign NPPOs that desire to export plants for planting to the United States. We do not want to put in place requirements that an exporting country cannot meet; where difficulties arise, we will work with exporting countries to find equivalent mitigations. The framework for IPRMM is open to the use of any means to effectively mitigate the pest risk, as it allows places of production and NPPOs to come up with pest management plans for their facilities.

As with our other programs for importation of plants and plant products, the time necessary to develop and approve a set of IPRMM will vary with the number of pests that must be mitigated and the complexity of the mitigations that are necessary.

One commenter stated that the current regulations for importation of plants in growing media in § 319.37–8 require that APHIS and the NPPO of the exporting country establish a written agreement for enforcement of the regulations, which is reflected through a bilateral workplan. The commenter asked whether the workplans would be replaced by IPRMM or would continue to exist in parallel with such measures.

We are not making any changes to our existing use of workplans to help implement the plants for planting regulations. When we develop IPRMM, it is likely that a workplan will be necessary to implement them.

Paragraph (a) of proposed § 319.37–21 describes the responsibilities of the place of production. It refers to documentation required under proposed paragraph (a)(5), which required documentation of program procedures being maintained by the place of production and available to the NPPO of the exporting country and APHIS upon request.

One commenter suggested that this reference should be to proposed paragraph (a)(6), which requires recordkeeping, rather than (a)(5).

We believe the documentation of program procedures maintained by places of production should be available to the NPPO of the exporting country and APHIS, but so should records required under paragraph (a)(6), as the commenter suggests. In this final rule, the reference includes both paragraphs.

Paragraph (a)(4) of proposed § 319.37–21 set out requirements for approved places of production to maintain traceability. We proposed that the system would at a minimum have to account for:

- The origin and pest status of mother stock;
- The year of propagation and the place of production of all plant parts that make up the plants for planting intended for export;
- Geographic location of the place of production;
- Location of plants for planting within the place of production;
- The plant taxon; and

[3] See *http://www.nappo.org/files/3414/3895/8942/RSPM24-Revision-01-08-13-e.pdf* for a discussion.

• The purchaser's identity.

One commenter stated that the requirements for traceability in RSPM No. 24 are far too prescriptive, often beyond the capacity of a grower. The commenter stated that it is impossible, for many faster-growing crops, to keep records on the location of plants for planting within the place of production. Within greenhouse production, the commenter stated that the limitations of space, timing of turns, and modern production practices would make it nearly impossible and certainly too costly to accomplish this level of traceability. The commenter added that in nursery production there are often multiple growing operations involved with producing a marketable crop, typically many iterations away from mother stock. In the commenter's opinion, the reality of pest and pathogen dispersal make it overwhelmingly unlikely that information connecting a plant to mother stock would be of any value and would be costly far beyond its utility. The commenter stated that the same general concern about being overly specific applies to many of the prescriptive elements in this section.

We disagree with the commenter that these requirements are unrealistic. Knowing where in the production facility plants are located, for example, is not only necessary to maintain phytosanitary security but also to fulfill orders. Records of the mother stock used to produce plants allows for tracking which stock is most successful, as well as providing traceability in the event of a pest outbreak. A well-maintained place of production will keep these records as a means to ensure that its plants grow well so that orders can be fulfilled safely and efficiently.

ISPM No. 36 supports our judgment. The standard indicates in section 2.1.1 that the following conditions (among others) should be included in the approval process for producers seeking to use the general integrated measures:

• Maintaining an updated plan of the place of production as well as keeping records of when, where and how plants for planting were produced, treated, stored or prepared for movement from the place of production (including information on all plant species at the place of production and the type of plant material such as cuttings, *in vitro* cultures, bare root plants).

• Keeping records for a period determined by the NPPO of the exporting country that verify where and how plants for planting were purchased, stored, produced, distributed and any other relevant information on their plant health status.

These are substantively identical to the traceability requirements in proposed paragraph (a)(4).

However, we have reviewed the proposed traceability requirements and determined that they may not all need to be in place for every set of IPRMM. Different pests will require different levels and types of traceability. Therefore, this final rule indicates that, depending on the nature of the quarantine pest, the system may need to include those traceability elements. This change will ensure that our traceability requirements in IPRMM are not unnecessarily restrictive.

Paragraph (c)(1) of proposed § 319.37–21 required the NPPO of the exporting country to provide APHIS with information about, among other things, the pests associated with the plant, including prevalence, distribution, and damage potential. One commenter asked how the exporting country can assess the potential damage that might occur in the United States.

If the exporting country has information about the damage a plant pest causes in that country, we can use it to inform our assessment of the potential damage the pest can cause in the United States. Requesting such information is consistent with the requirements for requests to change the general requirements for importing a plant or plant product into the United States in § 319.5.

Paragraph (d) of proposed § 319.37–21 addressed the responsibilities of plant brokers trading in plants for planting for export that are produced in accordance with IPRMM. We proposed to require plant brokers to be approved by the NPPO of the exporting country or its designee. Under the proposed rule, plant brokers would have to ensure the traceability of consignments from an approved place of production or production site and maintain the phytosanitary status of the plants in a manner equivalent to an approved place of production from purchase, storage, and transportation to the export destination. Brokers would also have to document their processes for verifying status and maintaining traceability.

We received several comments on these provisions. One commenter opposed the proposed requirements for plant brokers, stating that they were overly restrictive and should be rewritten in consultation with industry. The commenter specifically opposed the requirements that brokers maintain the phytosanitary status and traceability of their plants, stating that brokers are likely commingling material from several places of production. The commenter supported the approach of ISPM No. 36, which limits integrated measures to the place of production.

Five commenters supported the proposed provisions. One stated that brokers play an extremely important role in ensuring the integrity of the proposed measures and that consignments of plants that have been produced under different IPRMM or outside any such measures cannot be allowed to be mixed because such mixing would undermine the system. Another stated that, in the commenter's experience, sales demands or lack of inventory lead to substitutions by brokers, especially if untrained employees are responsible for fulfilling orders, and supported the requirements as an effort to ensure that careful consideration is given to the role and responsibilities of brokers in the importation process.

We are retaining the proposed provisions for plant brokers in this final rule. We agree with the latter commenters that the step of the export chain after the plants leave the place of production and before they are exported is crucial to ensuring the success of IPRMM. For example, if a plant was produced in accordance with measures designed to exclude an insect pest, it would need to be secured to prevent infestation after it left the production site. In particular, commingling the plants for planting with plants for planting not produced in accordance with IPRMM could result in infested plants being exported to the United States. Brokers have a responsibility to maintain such security.

One commenter stated that we should prohibit plant brokers from commingling plants from various sources.

The requirement that plant brokers maintain the phytosanitary status of their plants will prevent plant brokers from commingling plants for planting produced in accordance with IPRMM and plants not produced in accordance with such measures. However, there is no phytosanitary risk-based reason to prohibit plant brokers from commingling plants for planting produced in accordance with IPRMM from different places of production. The places of production with commingled plants assume a risk that, if a pest is detected at the port of entry, and, depending on the biology of the pest, it is necessary to destroy, treat, or re-export the shipment, all the plants in the shipment would be affected.

One commenter asked whether plant brokers are considered plant exporters. Another asked whether brokers who take possession of plants for planting at

U.S. ports would be covered by proposed paragraph (d).

We do not know the distinction the first commenter intends between the terms ''plant broker'' and ''plant exporter.'' In response to the second comment, brokers who take possession of plants for planting at U.S. ports would not be covered by the IPRMM. However, these two comments indicate to us that we need to define the term ''plant broker'' more clearly. RSPM No. 24 includes a definition that reads as follows: ''An entity that purchases or takes possession of plants for planting from an approved place of production for the purpose of exporting those plants without further growing beyond maintaining the plants until export.'' In this final rule, we are adding this definition of *plant broker* to § 319.37–2 to provide further clarity.

One commenter asked about the rationale for requiring plant brokers to be officially approved, noting that such a requirement does not exist currently when exporting plants for planting to the United States. The commenter stated that such a requirement could be a barrier to trade, preventing brokers from taking advantage of export opportunities. The commenter recommended that certification of traceability be left to the NPPO of the exporting country.

As discussed earlier, we will only use IPRMM when the pest risk warrants doing so. Pests for which such measures will be developed will likely be high-risk, difficult or impossible to detect through visual inspection, or both. In such cases, we believe plant brokers must be approved by the NPPO of the exporting country. This will ensure additional accountability in the context of the IPRMM. As noted later in the framework, a plant broker could be suspended from participating in an IPRMM program if he or she was found to have failed to meet the program requirements. In order to be suspended, the plant broker must first be approved.

It is important to note again that approval of plant brokers by the NPPO of the exporting country will not be a general requirement for the importation of all plants for planting, just those whose importation will be subject to IPRMM. Plant brokers who, for whatever reason, cannot or do not want to get approval from their NPPO to act as plant brokers in IPRMM programs will be able to participate in the export of other plants. To make this clear, this final rule modifies proposed paragraph (d) to indicate that the requirements for plant brokers only apply when they trade in plants for planting produced in accordance with IPRMM.

One commenter asked how traceback would affect plant brokers and approved production sites or places of production if a pest was detected at the port of entry in a consignment of plants for planting produced in accordance with IPRMM. The commenter asked how traceback would function to decide at which point the system failed, and whether the place of production or the broker would be held responsible. The commenter also asked what remedies would be applied if the broker was not approved.

Under our current regulations and in accordance with international standards, when a pest is detected at the port of entry in exported plants for planting, the NPPO of the exporting country conducts traceback to determine where phytosanitary security may have been compromised. This would continue to be the case for any plants for planting produced in accordance with IPRMM. Responsibility would be determined based on the investigation. Any place of production or plant broker not meeting the conditions of the IPRMM would be suspended. If a broker is not approved to participate in the IPRMM program, APHIS and the NPPO of the exporting country would work together to determine whether tighter controls should be applied.

As noted earlier, the proposed plant broker requirements included a requirement that the brokers maintain the phytosanitary status of the plants in a manner equivalent to an approved place of production from purchase, storage, and transportation to the export destination. We also proposed to require plant brokers to document their process for verifying status.

One commenter asked how a broker would write up a ''place of production'' manual and audit it.

We believe the wording of the proposed requirement may have created some confusion. We do not intend for plant brokers to maintain the phytosanitary status of plants exactly as a place of production would, but rather to ensure that the plants remain free of the pests of concern after they leave the place of production. For example, if the pest of concern is an insect pest, the place of production may be required to have double-entry doors, trapping and monitoring, or other such mitigations. The plant broker may be able to secure the plants simply by keeping them in a sealed container or making sure they are covered with insect-proof mesh at all times. To make this clear, we are removing the words ''in a manner'' from the proposed text, so that the broker is required to maintain the phytosanitary status of the plants after they leave the place of production but not necessarily to use the same methods as the place of production to do so.

Paragraph (e) of proposed § 319.37–21 set out requirements for external audits of IPRMM. Paragraph (e)(1) set out provisions for APHIS audits.

One commenter stated that it is considered the responsibility of the NPPO of the exporting country to verify compliance, not the importing country, under the IPPC. The commenter also objected to the idea that APHIS would audit the performance of the NPPO of the exporting country.

We agree with the commenter. The proposed requirements indicated that APHIS or its designee will periodically audit the system to ensure that it continues to meet the stated objectives, but the performance of the NPPO will not be audited. In the proposed rule, we indicated that post-approval audits will include inspection of imported plants for planting, site visits, and review of the IPRMM and internal audit processes of both the place of production and the NPPO of the exporting country. We are indicating in this final rule that such audits may include those things, as we so require, to allow for more leeway to choose the appropriate level of auditing.

Paragraph (f) of proposed § 319.37–21 set out a framework for determining actions in case of noncompliance. It stated that regulatory responses to program failures will be based on existing bilateral agreements and that APHIS will specify the consequences of noncompliance to the NPPO of the exporting country.

One commenter stated that we should incorporate the strongest penalties listed in ISPM No. 36, RSPM No. 24, and the proposal, wherever they may happen to be found, into the final regulations.

We understand the commenter's concerns about the potential consequences of noncompliance. However, as different IPRMM will necessarily have different points of concern and potential noncompliance, we believe it will be simpler and more flexible to determine the actions we take in case of noncompliance within the individual IPRMM.

Postentry Quarantine

We proposed to set out requirements for postentry quarantine in § 319.37–23. Under current § 319.37–7, certain taxa of plants for planting are required to be grown in postentry quarantine in order to determine whether they are infested with quarantine pests, typically pathogens. Section 319.37–7 also provides a framework of requirements under which postentry quarantine must be conducted and completed. We

proposed to move the lists of taxa that must be grown in postentry quarantine that are currently found in paragraphs (a) and (b) of § 319.37–7 to the Plants for Planting Manual and update them with the streamlined process.

One commenter expressed concerns about the use of postentry quarantine. The commenter stated that the system has proved inadequate to prevent pests from escaping, as in the escape of citrus longhorned beetle (*Anoplophora chinensis*) at a nursery in Tukwila, WA. The commenter hoped that APHIS will shift from using postentry quarantine as a mitigation to the use of IPRMM.

We do intend to emphasize the use of IPRMM to address pest risks rather than postentry quarantine in the future. The restructuring of the plants for planting regulations will make it easier to do so.

We proposed to set out requirements for State postentry quarantine agreements in paragraph (b) of proposed § 319.37–23. Such requirements were previously found in paragraph (c) of § 319.37–7. We stated that there is no need to retain the level of detail regarding such agreements that is found in current paragraph (c), which sets out extensive requirements that States must meet in order to be sites for postentry quarantine; for example, the paragraph includes detailed requirements for State laws and regulations, duties of State inspectors, services APHIS agrees to provide, and provisions for termination of a State postentry quarantine agreement.

One commenter expressed concern about removing this detail, believing that the agreements could be subject to political pressure and other nonscientific factors during negotiation that could result in heightened pest risk.

We do not anticipate that anything will change as a result of removing the details, and, as the commenter noted, removing those details will allow us to tailor the agreements to specific circumstances.

Miscellaneous Changes

Proposed paragraph (c) of § 319.37–1 indicated that the importation of plants that are imported for processing, as determined by an inspector based on documentation accompanying the articles, is not subject to the plants for planting regulations. However, the importation of such plants may be subject to other regulations, and the proposed text could have given the impression that there were no further requirements for the importation of such plants. Therefore, in this final rule, we have changed the proposed paragraph to indicate that the importation of such plants is not subject to the plants for planting regulations but may be subject to regulations elsewhere in 7 CFR part 319, which contains the import quarantine notices.

Additionally, plants that are imported for consumption, as determined by an inspector based on documentation accompanying the articles, are similarly not subject to the plants for planting regulations. We have changed proposed paragraph (c) to reflect this as well.

In the same section, proposed paragraph (f) had indicated that common names of plants for planting may be given in parentheses after most scientific names, when common names are known. This was intended to refer to the Plants for Planting Manual, rather than the regulations themselves, since we were proposing to move taxa-specific restrictions and prohibitions to the manual. In this final rule, we clarify that paragraph (f) of § 319.37–1 pertains to the Plants for Planting Manual.

In the definitions section of this final rule, § 319.37–2, we are adding a definition of *Animal and Plant Health Inspection Service (APHIS)* for clarity. Adding this definition allows us to simplify the wording of the definition of *Plant Protection and Quarantine Programs* and reflects the use of the acronym ''APHIS'' throughout the subpart. Additionally, since the proposed rule was issued, we revised the definition of *phytosanitary certificate* within the plants for planting regulations. We are retaining this revised definition, with minor edits to reflect the structure of the revised subpart.

Finally, the revisions to the subpart make it necessary for us to update references and citations that appear elsewhere in our regulations in title 7. We are making these nonsubstantive updates in 7 CFR parts 318, 319, 330, 340, 360, and 361.

Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule, with the changes discussed in this document.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866 and, therefore, has not been reviewed by the Office of Management and Budget. This rule is not expected to be an E.O. 13771 regulatory action because it is not significant under E.O. 12866. Further, APHIS considers this rule to be a deregulatory action under E.O. 13771 as it will facilitate access to information on import restrictions for specific types of plants for planting and create a more efficient process for amending import requirements.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the *Regulations.gov* website (see footnote 1 in this document for a link to Regulations.gov) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This analysis examines the potential economic impacts on small entities of a final rule to restructure the regulations contained in 7 CFR part 319 that govern the importation of plants for planting. This action will provide for more efficient application of these regulations, while not making any major changes to current import restrictions. Besides improving the clarity of these regulations, the rule will:

- Consolidate the requirements for importation of plants for planting into one subpart in 7 CFR part 319;
- Add most of the plants for planting that are listed as prohibited to the list of those whose importation is NAPPRA;
- Characterize the other prohibitions as restrictions, and add them to the Plants for Planting manual;
- Remove several lists of approved items (for example, approved growing media, packing materials, and ports of entry) from the regulations and instead provide these lists to the public in the Plants for Planting Manual;
- Move restrictions on the importation of specific types of plants for planting from the regulations to the Plants for Planting Manual;
- Establish a framework for the use of IPRMM where appropriate in the production of specific types of plants for planting for importation into the United States;
- Clarify postentry quarantine requirements; and
- Establish a process for making changes to import restrictions on specific types of plants for planting after taking public comment on notices published in the **Federal Register**, rather than by publishing proposed and final rules.

The changes will facilitate access to information on import restrictions for specific types of plants for planting, and create a more efficient process for amending import requirements. Importers of plants for planting can expect changes in import restrictions to be accomplished more than 4 months sooner than they would be through rulemaking. While nearly all importers of plants for planting that are directly affected by the rule are small, any

associated costs will be modest, including instances in which phytosanitary certification are newly required.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new reporting, recordkeeping, or third party disclosure requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

7 CFR Part 318

Cotton, Cottonseeds, Fruits, Guam, Plant diseases and pests, Puerto Rico, Quarantine, Transportation, Vegetables, Virgin Islands.

7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Plant diseases and pests, Plants for planting, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 330

Customs duties and inspection, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 340

Administrative practice and procedure, Biotechnology, Genetic engineering, Imports, Packaging and containers, Plant diseases and pests, Transportation.

7 CFR Part 360

Plants, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 361

Agricultural commodities, Imports, Labeling, Reporting and recordkeeping requirements, Seeds.

Accordingly, we are amending 7 CFR parts 318, 319, 330, 340, 360, and 361 as follows:

PART 318—STATE OF HAWAII AND TERRITORIES QUARANTINE NOTICES

■ 1. The authority citation for part 318 continues to read as follows.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 318.60 is amended by revising paragraph (c)(2) to read as follows:

§ 318.60 Notice of quarantine.

* * * * *

(c) Sand (other than clean ocean sand), soil, or earth around the roots of plants shall not be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any person from Hawaii, Puerto Rico, or the Virgin Islands of the United States into or through any other State, Territory, or District of the United States: *Provided,* That the prohibitions of this section shall not apply to the movement of such products in either direction between Puerto Rico and the Virgin Islands of the United States: *Provided further,* That such prohibitions shall not prohibit the movement of such products by the United States Department of Agriculture for scientific or experimental purposes, nor prohibit the movement of sand, soil, or earth around the roots of plants which are carried, for ornamental purposes, on vessels into mainland ports of the United States and which are not intended to be landed thereat, when evidence is presented satisfactory to the inspector of the Plant Protection and Quarantine Programs of the Department of Agriculture that such sand, soil, or earth has been so processed or is of such nature that no pest risk is involved, or that the plants with sand, soil, or earth around them are maintained on board under such safeguards as will preclude pest escape: *And provided further,* That such prohibitions shall not prohibit the movement of plant cuttings or plants that have been—

(1) Freed from sand, soil, and earth;

(2) Subsequently potted and established in sphagnum moss or other packing material approved under § 319.37–11 of this chapter that had been stored under shelter and had not been previously used for growing or packing plants;

(3) Grown thereafter in a manner satisfactory to an inspector of the Plant Protection and Quarantine Programs to prevent infestation through contact with sand, soil, or earth; and

(4) Certified by an inspector of the Plant Protection and Quarantine Programs as meeting the requirements of paragraphs (c)(1) through (3) of this section.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.6 [Amended]

■ 4. In § 319.6, paragraph (d)(4) is amended by removing the citation ''§ 319.37–9'' and adding the citation ''§ 319.37–11'' in its place.

■ 5. Section 319.8 is amended as follows:

■ a. By designating the current text of the section as paragraph (a); and

■ b. By adding paragraph (b).

The addition reads as follows:

§ 319.8 Notice of quarantine.

* * * * *

(b) The importation of cotton plants (including any plant parts) that are for planting or capable of being planted is restricted in Subpart—Plants for Planting of this part.

§ 319.8–1 [Amended]

■ 6. In § 319.8–1, the definition of *cottonseed* is amended by adding the words ''and that is intended for processing or consumption'' before the period.

■ 7. Section 319.15 is amended as follows:

■ a. By redesignating paragraph (b) as paragraph (c); and

■ b. By adding a new paragraph (b).

The addition reads as follows:

§ 319.15 Notice of quarantine.

* * * * *

(b) The importation of sugarcane plants (including any plant parts) that are for planting or capable of being planted is restricted under Subpart—Plants for Planting of this part.

* * * * *

Subpart—Citrus Canker and Other Citrus Diseases [Removed]

■ 8. Subpart—Citrus Canker and Other Citrus Diseases, consisting of § 319.19, is removed.

■ 9. Section 319.24 is amended as follows:

■ a. By redesignating paragraphs (b) through (d) as paragraphs (c) through (e), respectively; and

■ b. By adding a new paragraph (b).

The addition reads as follows:

§ 319.24 Notice of quarantine.

* * * * *

(b) The importation of corn plants (including any plant parts) that are for

planting or capable of being planted is restricted in Subpart—Plants for Planting of this part.

* * * * *

■ 10. Subpart—Citrus Fruit, is amended by revising the first paragraph of the Note below the subpart heading that precedes § 319.28 to read as follows:

Subpart—Citrus Fruit

Note 1 to Subpart—Citrus Fruit: Citrus plants for planting may be imported in accordance with Subpart—Plants for Planting of this part.

* * * * *

■ 11. Section 319.28 is amended as follows:

■ a. In paragraph (a)(4), by removing the words ''§§ 319.37 through 319.37–27'' and adding the words ''§§ 319.37–1 through 319.37–23'' in their place;

■ b. In paragraph (b)(8) introductory text, by removing the words ''port of entry identified in § 319.37–14'' and adding the words ''Customs designated port of entry indicated in 19 CFR 101.3(b)(1)'' in their place; and

■ c. By revising the OMB citation at the end of the section.

The revision reads as follows:

§ 319.28 Notice of quarantine.

* * * * *

(Approved by the Office of Management and Budget under control numbers 0579–0173 and 0579–0314)

■ 12. Subpart—Plants for Planting, consisting currently of §§ 319.37 through 319.37–14, is revised to read as follows:

Subpart—Plants for Planting

Sec.

319.37–1 Notice of quarantine.
319.37–2 Definitions.
319.37–3 General restrictions on the importation of plants for planting.
319.37–4 Taxa of plants for planting whose importation is not authorized pending pest risk analysis.
319.37–5 Permits.
319.37–6 Phytosanitary certificates.
319.37–7 Marking and identity.
319.37–8 Ports of entry: Approved ports, notification of arrival, inspection, and refusal of entry.
319.37–9 Treatment of plants for planting; costs and charges for inspection and treatment; treatments applied outside the United States.
319.37–10 Growing media.
319.37–11 Packing and approved packing material.
319.37–12 through 319.37–19 [Reserved]
319.37–20 Restrictions on the importation of specific types of plants for planting.
319.37–21 Integrated pest risk management measures.
319.37–22 Trust fund agreements.
319.37–23 Postentry quarantine.

§ 319.37–1 Notice of quarantine.

(a) Under section 412(a) of the Plant Protection Act, the Secretary of Agriculture may prohibit or restrict the importation and entry of any plant or plant product if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into the United States or the dissemination within the United States of a plant pest or noxious weed.

(b) The Secretary has determined that it is necessary to designate the importation of certain taxa of plants for planting as not authorized pending pest risk analysis, as provided in § 319.37–4. The Secretary has determined that it is necessary to restrict the importation into the United States of all other plants for planting and to impose additional restrictions on the importation of specific types of plants for planting, in accordance with this subpart and as described in the Plants for Planting Manual.

(c) The importation of plants that are imported for processing or consumption, as determined by an inspector based on documentation accompanying the articles, is not subject to this subpart but may be subject to restrictions elsewhere in this part.

(d) The importation of taxa of plants for planting that are listed in parts 360 and 361 of this chapter is subject to the restrictions in those parts.

(e) The Plant Protection and Quarantine Programs also enforces regulations promulgated under the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) which contain additional prohibitions and restrictions on importation into the United States of plants for planting subject to this subpart (see 50 CFR parts 17 and 23).

(f) Within the Plants for Planting Manual, one or more common names of plants for planting may be given in parentheses after most scientific names (when common names are known) for the purpose of helping to identify the plants for planting represented by such scientific names; however, unless otherwise specified, a reference to a scientific name includes all plants for planting within the taxon represented by the scientific name regardless of whether the common name or names are as comprehensive in scope as the scientific name. When restrictions apply to the importation of a taxon of plants for planting for which there are taxonomic synonyms, those restrictions apply to the importation of all the synonyms of that taxon as well.

§ 319.37–2 Definitions.

The following definitions apply to this subpart:

Administrator. The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other employee of the United States Department of Agriculture authorized to act in his or her stead.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service, United States Department of Agriculture.

Bulb. The portion of a plant commonly known as a bulb, bulbil, bulblet, corm, cormel, rhizome, tuber, or pip, and including fleshy roots or other underground fleshy growths, a unit of which produces an individual plant.

Consignment. A quantity of plants for planting being moved from one country to another and covered, when required, by a single phytosanitary certificate (a consignment may be composed of one or more lots or taxa).

Controlled import permit. A written or electronically transmitted authorization issued by APHIS for the importation into the United States of otherwise prohibited or restricted plant material for experimental, therapeutic, or developmental purposes, under controlled conditions as prescribed by the Administrator in accordance with § 319.6.

Earth. The softer matter composing part of the surface of the globe, in distinction from the firm rock, and including the soil and subsoil, as well as finely divided rock and other soil formation materials down to the rock layer.

From. Plants for planting are considered to be ''from'' any country or locality in which they are grown. *Provided,* That plants for planting imported into Canada from another country or locality shall be considered as being solely from Canada if they meet the following conditions:

(1) They are imported into the United States directly from Canada after having been grown for at least 1 year in Canada;

(2) They have never been grown in a country from which their importation would not be authorized pending pest risk analysis under § 319.37–4;

(3) They have never been grown in a country, other than Canada, from which it would be subject to certain restrictions on the importation of specific types of plants for planting under § 319.37–20, which are listed in the Plants for Planting Manual; *Provided,* that plants for planting that would be subject to postentry quarantine if imported into the United States may be imported from Canada

after growth in another country if they were grown in Canada in postentry quarantine under conditions equivalent to those specified in the Plants for Planting Manual; and

(4) They were not imported into Canada in growing media.

Inspector. Any individual authorized by the Administrator or the Commissioner of Customs and Border Protection, Department of Homeland Security, to enforce the regulations in this part.

Lot. A number of units of a single commodity, identifiable by its homogeneity of composition and origin, forming all or part of a consignment.

Mother stock. A group of plants from which plant parts are taken to produce new plants.

National plant protection organization (NPPO). The official service established by a government to discharge the functions specified by the International Plant Protection Convention.

Noxious weed. Any plant or plant product that can directly or indirectly injure or cause damage to crops (including plants for planting or plant products), livestock, poultry, or other interests of agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment.

Official control. The active enforcement of mandatory phytosanitary regulations and the application of mandatory phytosanitary procedures with the objective of eradication or containment of quarantine pests.

Person. Any individual, partnership, corporation, association, joint venture, or other legal entity.

Phytosanitary certificate. A document, including electronic versions, that is related to a restricted article and is issued not more than 15 days prior to shipment of the restricted article from the country in which it was grown and that:

(1) Is patterned after the model certificate of the International Plant Protection Convention, a multilateral convention on plant protection under the authority of the Food and Agriculture Organization of the United Nations (FAO);

(2) Is issued by an official of a foreign national plant protection organization in one of the five official languages of the FAO;

(3) Is addressed to the national plant protection organization of the United States (Animal and Plant Health Inspection Service);

(4) Describes the shipment;

(5) Certifies the place of origin for all contents of the shipment;

(6) Certifies that the shipment has been inspected and/or tested according to appropriate official procedures and is considered free from quarantine pests of the United States;

(7) Contains any additional declarations required in the Plants for Planting Manual; and

(8) Certifies that the shipment conforms with the phytosanitary requirements of the United States and is considered eligible for importation pursuant to the laws and regulations of the United States.

Place of production. Any premises or collection of fields operated as a single production or farming unit. This may include production sites that are separately managed for phytosanitary purposes.

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Plant broker. An entity that purchases or takes possession of plants for planting from an approved place of production for the purpose of exporting those plants without further growing beyond maintaining the plants until export.

Plant pest. Any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of these articles.

Plant Protection and Quarantine Programs. The organizational unit within APHIS that is delegated responsibility for enforcing provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*) and related legislation, quarantines, and regulations.

Planting. Any operation for the placing of plants in a growing medium, or by grafting or similar operations, to ensure their subsequent growth, reproduction, or propagation.

Plants for planting. Plants intended to remain planted, to be planted, or replanted.

Plants for Planting Manual. The document that contains restrictions on the importation of specific types of plants for planting, as provided in § 319.37–20, and other information about the importation of plants for planting as provided in this subpart. The Plants for Planting Manual is available on the internet at *https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/plants_for_planting.pdf.* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road, Unit 133, Riverdale, MD 20737–1236.

Port of first arrival. The land area (such as a seaport, airport, or land border station) where a person, or a land, water, or air vehicle, first arrives after entering the territory of the United States, and where inspection of plants for planting is carried out by inspectors.

Preclearance. Phytosanitary inspection and/or clearance in the country in which the plants for planting were grown, performed by or under the regular supervision of APHIS.

Production site. A defined portion of a place of production utilized for the production of a commodity that is managed separately for phytosanitary purposes. This may include the entire place of production or portions of it. Examples of portions of places of production are a defined orchard, grove, field, greenhouse, screenhouse, or premises.

Quarantine pest. A plant pest or noxious weed that is of potential economic importance to the United States and not yet present in the United States, or present but not widely distributed and being officially controlled.

Regulated plant. A vascular or nonvascular plant. Vascular plants include gymnosperms, angiosperms, ferns, and fern allies. Gymnosperms include cycads, conifers, and gingko. Angiosperms include any flowering plant. Fern allies include club mosses, horsetails, whisk ferns, spike mosses, and quillworts. Nonvascular plants include mosses, liverworts, hornworts, and green algae.

Secretary. The Secretary of Agriculture, or any other officer or employee of the Department of Agriculture to whom authority to act in his/her stead has been or may hereafter be delegated.

Soil. The loose surface material of the earth in which plants, trees, and shrubs grow, in most cases consisting of disintegrated rock with an admixture of organic material and soluble salts.

Species (spp.). All species, clones, cultivars, strains, varieties, and hybrids of a genus.

State. Any of the several States of the United States, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands of the United States, or any other territory or possession of the United States.

State Plant Regulatory Official. The official authorized by the State to sign agreements with Federal agencies involving operations of the State plant protection agency.

Taxon (taxa). Any grouping within botanical nomenclature, such as family, genus, species, or cultivar.

Type of plants for planting. A grouping of plants for planting based on shared characteristics such as biological traits, morphology, botanical nomenclature, or risk factors.

United States. All of the States.

§ 319.37–3 General restrictions on the importation of plants for planting.

(a) The importation of certain taxa of plants for planting is not authorized pending pest risk analysis in accordance with § 319.37–4.

(b) General restrictions that apply to the importation of all plants for planting other than those whose importation is not authorized pending pest risk analysis are found in §§ 319.37–5 through 319.37–11.

(c) In accordance with § 319.37–20, the Administrator may impose restrictions on the importation of specific types of plants for planting. These restrictions are listed in the Plants for Planting Manual. Additional information on restrictions applicable to the importation of specific types of plants for planting can be found in §§ 319.37–20 through 319.37–23.

§ 319.37–4 Taxa of plants for planting whose importation is not authorized pending pest risk analysis.

(a) *Determination by the Administrator.* The importation of certain taxa of plants for planting poses a risk of introducing quarantine pests into the United States. Therefore, the importation of these taxa is not authorized pending the completion of a pest risk analysis, except as provided in paragraph (f) of this section. These taxa are listed in the Plants for Planting Manual. There are two categories of taxa whose importation is not authorized pending pest risk analysis: Taxa of plants for planting that are quarantine pests, and taxa of plants for planting that are hosts of quarantine pests. For taxa of plants for planting that have been determined to be quarantine pests, the list includes the names of the taxa. For taxa of plants for planting that are hosts of quarantine pests, the list includes the names of the taxa, the foreign places from which the taxa's importation is not authorized, and the quarantine pests of concern.

(b) *Addition of taxa.* A taxon of plants for planting may be added to one of the lists of taxa not authorized for importation pending pest risk analysis under this section as follows:

(1) *Data sheet.* APHIS will publish in the **Federal Register** a document that announces our determination that a taxon of plants for planting is either a quarantine pest or a host of a quarantine pest. This notice will make available a data sheet that details the scientific evidence APHIS evaluated in making the determination that the taxon is a quarantine pest or a host of a quarantine pest. The data sheet will include references to the scientific evidence that APHIS used in making the determination. In our notice, we will provide for a public comment period of a minimum of 60 days on our additions to the list.

(2) *Response to comments.* (i) APHIS will issue a notice after the close of the public comment period indicating that the taxon will be added to the list of taxa not authorized for importation pending pest risk analysis if:

(A) No comments were received on the data sheet;

(B) The comments on the data sheet revealed that no changes to the data sheet were necessary; or

(C) Changes to the data sheet were made in response to public comments, but the changes did not affect APHIS' determination that the taxon poses a risk of introducing a quarantine pest into the United States.

(ii) If comments present information that leads us to determine that the importation of the taxon does not pose a risk of introducing a quarantine pest into the United States, APHIS will not add the taxon to the list of plants for planting whose importation is not authorized pending pest risk analysis. APHIS will issue a notice giving public notice of this determination after the close of the comment period.

(c) *Criterion for listing a taxon of plants for planting as a quarantine pest.* A taxon will be added to the list of taxa whose importation is not authorized pending pest risk analysis if scientific evidence causes APHIS to determine that the taxon is a quarantine pest.

(d) *Criteria for listing a taxon of plants for planting as a host of a quarantine pest.* A taxon will be added to the list of taxa whose importation is not authorized pending pest risk analysis if scientific evidence causes APHIS to determine that the taxon is a host of a quarantine pest. The following criteria must be fulfilled in order to make this determination:

(1) The plant pest in question must be determined to be a quarantine pest; and

(2) The taxon of plants for planting must be determined to be a host of that quarantine pest.

(e) *Removing a taxon from the list of taxa not authorized pending pest risk analysis.* (1) Requests to remove a taxon from the list of taxa whose importation is not authorized pending pest risk analysis (NAPPRA) must be made in accordance with § 319.5. APHIS will conduct a pest risk analysis in response to such a request. The pest risk analysis will examine the risk associated with the importation of that taxon as well as measures available to mitigate that risk. The pest risk analysis may analyze importation of the taxon from a specific area, country, or countries, or from all areas of the world. The conclusions of the pest risk analysis will apply accordingly.

(2) If the pest risk analysis indicates that the taxon is a quarantine pest or a host of a quarantine pest and the Administrator determines that there are no measures available that adequately mitigate the risk of introducing a quarantine pest into the United States through the taxon's importation, we will continue to list the taxon as not authorized for importation pending pest risk analysis. We will publish a notice making the pest risk analysis available for comment. If comments cause us to change our determination, we will publish another notice in accordance with either paragraph (e)(3) or (4) of this section, as appropriate. If comments do not cause us to change our determination, we will publish a second notice responding to the comments and affirming our determination that the taxon should continue to be listed as NAPPRA.

(3) If the pest risk analysis supports a determination that importation of the taxon be allowed subject to taxon-specific restrictions, APHIS will publish a notice making the pest risk analysis available to the public for comment in accordance with the process in § 319.37–20(c).

(4) If the pest risk analysis supports a determination that importation of the taxon be allowed subject to the general restrictions of this subpart, APHIS will publish a notice announcing our intent to remove the taxon from the list of taxa whose importation is not authorized pending pest risk analysis and making the pest risk analysis supporting the taxon's removal available for public comment.

(i) APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will be subject only to the general restrictions of this subpart if:

(A) No comments were received on the pest risk analysis;

(B) The comments on the pest risk analysis revealed that no changes to the pest risk analysis were necessary; or

(C) Changes to the pest risk analysis were made in response to public comments, but the changes did not affect the overall conclusions of the analysis and the Administrator's determination that the importation of the taxon does not pose a risk of introducing a quarantine pest into the United States.

(ii) If information presented by commenters indicates that the pest risk analysis needs to be revised, APHIS will issue a notice after the close of the public comment period indicating that the importation of the taxon will continue to be listed as not authorized pending pest risk analysis while the information presented by commenters is analyzed and incorporated into the pest risk analysis. APHIS will subsequently publish a new notice announcing the availability of the revised pest risk analysis.

(5) APHIS may also remove a taxon from the list of taxa whose importation is not authorized pending pest risk analysis when APHIS determines that the evidence used to add the taxon to the list was erroneous (for example, involving a taxonomic misidentification).

(f) *Controlled import permits.* Any plants for planting whose importation is not authorized pending pest risk analysis in accordance with this section may be imported or offered for entry into the United States if:

(1) Imported for experimental, therapeutic, or developmental purposes under the conditions specified in a controlled import permit issued in accordance with § 319.6;

(2) Imported at the National Plant Germplasm Inspection Station, Building 580, Beltsville Agricultural Research Center East, Beltsville, MD 20705 or through any USDA plant inspection station listed in the Plants for Planting Manual;

(3) Imported pursuant to a controlled import permit issued for such plants for planting and kept on file at the port of entry;

(4) Imported under conditions specified on the controlled import permit and found by the Administrator to be adequate to prevent the introduction into the United States of quarantine pests, *i.e.,* conditions of treatment, processing, growing, shipment, disposal; and

(5) Imported with a controlled import tag or label securely attached to the outside of the container containing the plants for planting or securely attached to the plant itself if not in a container, and with such tag or label bearing a controlled import permit number corresponding to the number of the controlled import permit issued for such plants for planting.

(Approved by the Office of Management and Budget under control number 0579–0380)

§ 319.37–5 Permits.

(a)(1) Plants for planting may be imported or offered for importation into the United States only after issuance of a written permit by the Plant Protection and Quarantine Programs, except as provided in the Plants for Planting Manual. Exceptions from the requirement for a written permit will be added, changed, or removed in accordance with § 319.37–20.

(2) Plants for planting whose importation is subject to postentry quarantine, as listed in the Plants for Planting Manual, must also be imported under an importer postentry quarantine growing agreement in accordance with § 319.37–23(c).

(b) An application for a written permit should be submitted to the Plant Protection and Quarantine Programs (Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permits, Permit Unit, 4700 River Road, Unit 133, Riverdale, MD 20737–1236) at least 30 days prior to arrival of the plants for planting at the port of entry. Application forms are available without charge from that address or on the internet at *http://www.aphis.usda.gov/permits/ppq_epermits.shtml.* The completed application shall include the following information:

(1) Name, address, and telephone number of the importer;

(2) The taxon or taxa and the approximate quantity of plants for planting intended to be imported;

(3) Country(ies) or locality(ies) where grown;

(4) Intended United States port of entry;

(5) Means of transportation, *e.g.,* mail, airmail, express, air express, freight, airfreight, or baggage; and

(6) Expected date of arrival.

(c) A permit indicating the applicable conditions for importation under this subpart will be issued by Plant Protection and Quarantine Programs if, after review of the application, the plants for planting are deemed eligible to be imported into the United States under the conditions specified in the permit. However, even if such a permit is issued, the plants for planting may be imported only if all applicable requirements of this subpart are met and only if an inspector at the port of entry determines that no remedial measures pursuant to the Plant Protection Act are necessary with respect to the plants for planting.[1]

(d) Any permit that has been issued may be revoked by an inspector or APHIS in accordance with § 319.7–4.

(e) Any plants for planting not required to be imported with a permit in accordance with paragraph (a) of this section may be imported or offered for importation into the United States only after issuance of an oral authorization for importation issued by an inspector at the port of entry.

(f) An oral authorization for importation of plants for planting shall be issued at a port of entry by an inspector only if all applicable requirements of this subpart are met, such plants for planting are eligible to be imported under an oral authorization, and an inspector at the port of entry determines that no measures pursuant to section 414 of the Plant Protection Act (7 U.S.C. 7714) are necessary with respect to such plants for planting.

(g) Persons wishing to import plants for planting into the United States for experimental, therapeutic, or developmental purposes must apply for a controlled import permit in accordance with §§ 319.6 and 319.37–3.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0285, and 0579–0319)

§ 319.37–6 Phytosanitary certificates.

(a) *Phytosanitary certificates.* Any plants for planting offered for importation into the United States must be accompanied by a phytosanitary certificate, except as described in paragraphs (b) and (c) of this section. The phytosanitary certificate must identify the genus of the plants for planting it accompanies. When the importation of individual species or cultivars within a genus is restricted in accordance with § 319.37–20, the phytosanitary certificate must also identify the species or cultivar of the plants for planting it accompanies. Otherwise, identification of the species is strongly preferred, but not required. Intergeneric and interspecific hybrids must be designated by placing the multiplication sign ''×'' between the names of the parent taxa. If the hybrid is named, the multiplication sign may instead be placed before the name of an intergeneric hybrid or before the epithet in the name of an interspecific hybrid.

[1] An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

(b) *Small lots of seed.* Lots of seed may be imported without a phytosanitary certificate required by paragraph (a) of this section under the following conditions:

(1) The importation of the seed is authorized by a written permit issued in accordance with § 319.37–5.

(2) The seed is not listed as not authorized pending pest risk analysis, as provided in § 319.37–4; is not of any noxious weed species listed in part 360 of this chapter; is not subject to restrictions on specific types of plants for planting as provided in § 319.37–20; is not restricted under the regulations in parts 330 and 340 of this chapter; and meets the requirements of part 361 of this chapter.

(3) The seed meets the following packaging and shipping requirements:

(i) Each seed packet is clearly labeled with the name of the collector/shipper, the country of origin, and the scientific name at least to the genus, and preferably to the species, level;

(ii) There are a maximum of 50 seeds of 1 taxon (taxonomic category such as genus, species, cultivar, etc.) per packet; or a maximum weight not to exceed 10 grams of seed of 1 taxon per packet;

(iii) There are a maximum of 50 seed packets per shipment;

(iv) The seeds are free from pesticides;

(v) The seeds are securely packaged in packets or envelopes and sealed to prevent spillage;

(vi) The shipment is free from soil, plant material other than seed, other foreign matter or debris, seeds in the fruit or seed pod, and living organisms such as parasitic plants, pathogens, insects, snails, mites; and

(vii) At the time of importation, the shipment is sent to either the Plant Germplasm Quarantine Center in Beltsville, MD, or a USDA plant inspection station.

(c) *Importation of other plants for planting without phytosanitary certificates.* (1) The Administrator may authorize the importation of types of plants for planting without a phytosanitary certificate if the plants for planting are accompanied by equivalent documentation agreed upon by the Administrator and the NPPO of the exporting country as sufficient to establish the eligibility of the plants for importation into the United States. The documentation must be provided by the NPPO or refer to documentation provided by the NPPO. The documentation must be agreed upon before the plants for planting are exported from the exporting country to the United States.

(2) The Administrator may impose additional restrictions on the importation of plants for planting that are not accompanied by a phytosanitary certificate to ensure that the plants are appropriately identified and free of quarantine pests.

(3) The Plants for Planting Manual lists types of plants for planting that are not required to be accompanied by a phytosanitary certificate; the countries from which their importation without a phytosanitary certificate is authorized; the approved documentation of eligibility for importation; and any additional conditions on their importation.

(4) Types of plants for planting may be added to or removed from the list of plants for planting that are not required to be accompanied by a phytosanitary certificate in accordance with § 319.37–20. The requirements for importing types of plants for planting without a phytosanitary certificate may also be changed by a notice issued in accordance with § 319.37–20. The notice published for comment will describe the documentation agreed upon by the Administrator and the NPPO of the exporting country and any additional restrictions to be imposed on the importation of the type of plants for planting.

(Approved by the Office of Management and Budget under control numbers 0579–0142, 0579–0190, 0579–0285, and 0579–0319)

§ 319.37–7 Marking and identity.

(a) Any consignment of plants for planting for importation, other than by mail at the time of importation, or offer for importation into the United States shall plainly and correctly bear on the outer container (if in a container) or the plants for planting (if not in a container) the following information:

(1) General nature and quantity of the contents;

(2) Country and locality where grown;

(3) Name and address of shipper, owner, or person shipping or forwarding the plants for planting;

(4) Name and address of consignee;

(5) Identifying shipper's mark and number; and

(6) Number of written permit authorizing the importation, if one was required under § 319.37–5.

(b) Any consignment of plants for planting for importation by mail shall be plainly and correctly addressed and mailed to the Plant Protection and Quarantine Programs at a port of entry listed in the Plants for Planting Manual as approved to receive imported plants for planting, shall be accompanied by a separate sheet of paper within the package plainly and correctly bearing the name, address, and telephone number of the intended recipient, and shall plainly and correctly bear on the outer container the following information:

(1) General nature and quantity of the contents;

(2) Country and locality where grown;

(3) Name and address of shipper, owner, or person shipping or forwarding the plants for planting; and

(4) Number of written permit authorizing the importation, if one was required under § 319.37–5.

(c) Any consignment of plants for planting for importation (by mail or otherwise), at the time of importation or offer for importation into the United States shall be accompanied by an invoice or packing list indicating the contents of the consignment.

(Approved by the Office of Management and Budget under control numbers 0579–0190 and 0579–0319)

§ 319.37–8 Ports of entry: Approved ports, notification of arrival, inspection, and refusal of entry.

(a) *Approved ports of entry.* Any plants for planting required to be imported under a written permit in accordance with § 319.37–5(a), if not precleared, must be imported or offered for importation only at a USDA plant inspection station, unless the Plants for Planting Manual indicates otherwise. Ports of entry through which plants for planting must pass through before arriving at these USDA plant inspection stations are listed in the Plants for Planting Manual. All other plants for planting may be imported or offered for importation at any Customs designated port of entry indicated in 19 CFR 101.3(b)(1). Exceptions may be listed in § 330.104 of this chapter. Plants for planting that are required to be imported under a written permit that are also precleared in the country of export are not required to enter at an inspection station and may enter through any Customs port of entry. Exceptions may be listed in § 330.104 of this chapter.

(b) *Notification upon arrival at the port of entry.* Promptly upon arrival of any plants for planting at a port of entry, the importer shall notify the Plant Protection and Quarantine Programs of the arrival by such means as a manifest, Customs entry document, commercial invoice, waybill, a broker's document, or a notice form provided for that purpose.

(c) *Inspection and treatment.* Any plants for planting may be sampled and inspected by an inspector at the port of first arrival and/or under preclearance inspection arrangements in the country in which the plants for planting were

grown, and must undergo treatment in accordance with part 305 of this chapter if treatment is ordered by the inspector. Any plants for planting found upon inspection to contain or be contaminated with quarantine pests that cannot be eliminated by treatment will be denied entry at the first United States port of arrival and must be destroyed or shipped to a point outside the United States.

(d) *Disposition of plants for planting not in compliance with this subpart.* The importer of any plants for planting denied entry for noncompliance with this subpart must, at the importer's expense and within the time specified in an emergency action notification (PPQ Form 523), destroy, ship to a point outside the United States, treat in accordance with part 305 of this chapter, or apply other safeguards to the plants for planting, as prescribed by an inspector, to prevent the introduction into the United States of quarantine pests. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the plant pest associated with the plants for planting, whether the plants for planting are a host of the pest, the types of other host materials for the pest in or near the port, the climate and season at the port in relation to the pest's survival range, and the availability of treatment facilities for the plants for planting.

(e) *Removal of plants for planting from port of first arrival.* No person shall remove any plants for planting from the port of first arrival unless and until notice is given to the collector of customs by the inspector that the plants for planting has satisfied all requirements under this subpart.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0310, and 0579–0319)

§ 319.37–9 Treatment of plants for planting; costs and charges for inspection and treatment; treatments applied outside the United States.

(a) The services of a Plant Protection and Quarantine inspector during regularly assigned hours of duty and at the usual places of duty shall be furnished without cost to the importer.[2] No charge will be made to the importer for Government-owned or -controlled special inspection facilities and equipment used in treatment, but the inspector may require the importer to furnish any special labor, chemicals, packing materials, or other supplies required in handling an importation under the regulations in this subpart. The Plant Protection and Quarantine Programs will not be responsible for any costs or charges, other than those indicated in this section.

(b) Any treatment performed in the United States on plants for planting must be performed at the time of importation into the United States. Treatment shall be performed by an inspector or under an inspector's supervision at a Government-operated special inspection facility, except that an importer may have such treatment performed at a nongovernmental facility if the treatment is performed at nongovernment expense under the supervision of an inspector and in accordance with part 305 of this chapter and in accordance with any treatment required by an inspector as an emergency measure in order to prevent the dissemination of any quarantine pests. However, treatment may be performed at a nongovernmental facility only in cases of unavailability of government facilities and only if, in the judgment of an inspector, the plants for planting can be transported to such nongovernmental facility without the risk of introduction into the United States of quarantine pests.

(c) Any treatment performed outside the United States must be monitored and certified by an APHIS inspector or an official from the NPPO of the exporting country. If monitored and certified by an official of the NPPO of the exporting country, then a phytosanitary certificate must be issued with the following declaration: ''The consignment of (fill in taxon) has been treated in accordance with 7 CFR part 305.'' During the entire interval between treatment and export, the consignment must be stored and handled in a manner that prevents any infestation by quarantine pests.

(Approved by the Office of Management and Budget under control number 0579–0190)

§ 319.37–10 Growing media.

(a) Any plants for planting at the time of importation or offer for importation into the United States shall be free of sand, soil, earth, and other growing media, except as provided in paragraph (b), (c), or (d) of this section.

(b) Plants for planting from Canada may be imported in any growing medium, except as restricted in the Plants for Planting Manual. Restrictions on growing media for specific types of plants for planting imported from Canada will be added, changed, or removed in accordance with § 319.37–20.

(c) Certain types of plants for planting growing solely in certain growing media listed in the Plants for Planting Manual may be imported established in such growing media. The Administrator has determined that the importation of the specified types of plants for planting in these growing media does not pose a risk of introducing quarantine pests into the United States. If the Administrator determines that a new growing medium may be added to the list of growing media in which imported plants for planting may be established, or that a growing medium currently listed for such purposes is no longer suitable for establishment of imported plants for planting, APHIS will publish in the **Federal Register** a notice that announces our proposed determination and requests comment on the change. After the close of the comment period, APHIS will publish another notice informing the public of the Administrator's decision on the change to the list of growing media in which imported types of plants for planting may be established.

(d) Certain types of plants for planting, as listed in the Plants for Planting Manual, may be imported when they are established in a growing medium approved by the Administrator and they are produced in accordance with additional requirements specified in the Plants for Planting Manual. Changes to the list of plants for planting that may be imported in growing media, and to the requirements for the importation of those types of plants for planting, will be made in accordance with § 319.37–20.

(Approved by the Office of Management and Budget under control numbers 0579–0190, 0579–0439, 0579–0454, 0579–0458, and 0579–0463)

§ 319.37–11 Packing and approved packing material.

(a) Plants for planting for importation into the United States must not be packed in the same container as plants for planting whose importation into the United States is not authorized pending pest risk analysis in accordance with § 319.37–4.

(b) Any plants for planting at the time of importation or offer for importation into the United States shall not be packed in a packing material unless the plants were packed in the packing material immediately prior to shipment; such packing material is free from sand, soil, or earth (except as designated in the Plants for Planting Manual); has not been used previously as packing material or otherwise; and is approved by the Administrator as not posing a risk of introducing quarantine pests. Approved packing materials are listed in the Plants for Planting Manual.

[2] Provisions relating to costs for other services of an inspector are contained in part 354 of this chapter.

(c) If the Administrator determines that a new packing material may be added to the list of packing materials, or that a packing material currently listed should no longer be approved, APHIS will publish in the **Federal Register** a notice that announces our proposed determination and requests comment on the change. After the close of the comment period, APHIS will publish another notice informing the public of the Administrator's decision on the change to the list of approved packing materials.

(Approved by the Office of Management and Budget under control number 0579–0190)

§§ 319.37–12 through 319.37–19 [Reserved]

§ 319.37–20 Restrictions on the importation of specific types of plants for planting.

(a) *Plant type-specific restrictions.* In addition to the general restrictions in this subpart, the Administrator may impose additional restrictions on the importation of specific types of plants for planting necessary to effectively mitigate the risk of introducing quarantine pests into the United States through the importation of specific plants for planting. Additional restrictions may be placed on the importation of the entire plant or on certain plant parts. A list of the types of plants for planting whose importation is subject to additional restrictions, and the specific restrictions that apply to the importation of each type of plants for planting, may be found in the Plants for Planting Manual.

(b) *Basis for changing restrictions.* The Administrator may determine that it is necessary to add, change, or remove restrictions on the importation of a specific type of plants for planting, based on the risk of introducing a quarantine pest through the importation of that type of plants for planting. The Administrator will make this determination based on the findings of a pest risk analysis or on other scientific evidence.

(c) *Process for adding, changing, or removing restrictions.* Restrictions on the importation of a specific type of plants for planting beyond the general restrictions in §§ 319.37–5 through 319.37–11 will be changed through the following process:

(1) *Document describing restrictions.* APHIS will publish in the **Federal Register** a notice that announces our proposed determination that it is necessary to add, change, or remove restrictions on the importation of a specific type of plants for planting. This notice will make available for public comment a document describing the restrictions that the Administrator has determined are necessary and how these restrictions will mitigate the risk of introducing quarantine pests into the United States.

(2) *Response to comments.* APHIS will issue a second notice after the close of the public comment period on the notice described in paragraph (c)(1) of this section. This notice will inform the public of the specific restrictions, if any, that the Administrator has determined to be necessary in order to mitigate the risk of introducing quarantine pests into the United States through the importation of the type of plants for planting. In response to the public comments submitted, the Administrator may implement the restrictions described in the document made available by the initial notice, amend the restrictions in response to public comment, or determine that changes to the restrictions on the importation of the type of plants for planting are unnecessary.

(d) *Previously imposed restrictions on specific types of plants for planting.* Types of plants for planting whose importation was subject to specific restrictions by specific regulation as of April 18, 2018, will continue to be subject to those restrictions, except as changed in accordance with the process specified in paragraph (c) of this section. The restrictions are found in the Plants for Planting Manual.

§ 319.37–21 Integrated pest risk management measures.

If a type of plants for planting is a host of a quarantine pest or pests, APHIS may require the type of plants for planting to be produced in accordance with integrated pest risk management measures as a condition of importation. This section sets out a general framework for integrated pest risk management measures. When APHIS determines that integrated measures are necessary to mitigate risk, APHIS will use this framework to develop integrated pest risk management measures that mitigate the quarantine pest risks associated with that type of plants for planting through the process described in § 319.37–20.

(a) *Responsibilities of the place of production.* The place of production is responsible for identifying, developing, and implementing procedures that meet the requirements of both the NPPO of the exporting country and APHIS. Participants in the export program must be approved by the NPPO or its designee and APHIS. Approval will be conferred by the NPPO or its designee and APHIS after the participant meets the conditions required for integrated pest risk management. Approval will be withdrawn if the participant fails to meet the conditions at any time. All documentation required under paragraphs (a)(5) and (6) of this section will be maintained by the exporting place of production and made available to official representatives of the NPPO of the exporting country and APHIS upon request. The place of production must be open to necessary and reasonable audit, monitoring, and evaluation of compliance by the NPPO of the exporting country and APHIS. The management of the place of production will be responsible for complying with the integrated pest risk management measures. Management must specify the roles and responsibilities of its personnel to perform program activities. The place of production must notify the NPPO of the exporting country of deficiencies detected during internal audits. The NPPO of the exporting country will be responsible for ensuring that the place of production is in compliance with the integrated pest risk management measures.

(1) *Pest management program.* The place of production must develop and implement an approved pest management program that contains ongoing pest monitoring and procedures for the exclusion and control of plant pests. The place of production must obtain material used to produce plants for planting from sources that are free of quarantine pests and that are approved by the NPPO of the exporting country and APHIS. All sources of plants for planting and the phytosanitary status of those plants must be well-documented and the program for producing plants for planting carefully monitored.

(2) *Training.* A training program approved by the NPPO of the exporting country and APHIS must be established, documented, and regularly conducted at the place of production. The training program must ensure that all those involved in the export program possess specific knowledge related to the relevant components of the program and a general understanding of its requirements.

(3) *Internal audits.* The place of production must perform, or designate parties to perform internal audits that ensure that a plan approved and documented by APHIS and the NPPO of the exporting country is being followed and is achieving the appropriate level of pest management.

(4) *Traceability.* The place of production must implement a procedure approved by APHIS and the NPPO of the exporting country or its designee

that documents and identifies plants from propagation through harvest and sale to ensure that plants can be traced forward and back from the place of production. Depending on the nature of the quarantine pests, the system may need to account for:

(i) The origin and pest status of mother stock;

(ii) The year of propagation and the place of production of all plant parts that make up the plants for planting intended for export;

(iii) Geographic location of the place of production;

(iv) Location of plants for planting within the place of production;

(v) The plant taxon; and

(vi) The purchaser's identity.

(5) *Documentation of program procedures.* The place of production must develop a manual approved by the NPPO of the exporting country and APHIS that guides the place of production's operation and that includes the following components:

(i) Administrative procedures (including roles and responsibilities and training procedures);

(ii) Pest management plan;

(iii) Place of production internal audit procedures;

(iv) Management of noncompliant product or procedures;

(v) Traceability procedures; and

(vi) Recordkeeping systems.

(6) *Records.* A place of production must maintain records on its premises as specified by APHIS and the NPPO of the exporting country. These records must be made available to APHIS and the NPPO of the exporting country upon request. These documents include all the elements described in this paragraph (a) and copies of all internal and external audit documents and reports.

(b) *Responsibilities of APHIS and the NPPO of the exporting country.* APHIS and the NPPO of the exporting country are responsible for collaborating to establish program requirements, including workplans and compliance agreements as necessary, for recognizing and implementing particular import programs. Technically justified modifications to the program may be negotiated. The administration of program requirements must include such elements as clarification of terminology, testing and retesting requirements, eligibility, the nomenclature of certification levels, horticultural management, isolation and sanitation requirements, inspection, documentation, identification and labeling, quality assurance, noncompliance and remedial measures, and postentry quarantine requirements. The criteria for approving, suspending, removing, and reinstating approval for a particular program should be jointly developed and agreed upon by APHIS and the NPPO of the exporting country. Information should be exchanged between APHIS and the NPPO of the exporting country through officially designated points of contact.

(c) *Responsibilities of the NPPO of the exporting country.* (1) The NPPO of the exporting country must provide sufficient information to APHIS to support the evaluation and acceptance of export programs. This may include:

(i) Specific identification of the commodity, place of production, and expected volume and frequency of consignments;

(ii) Relevant production, harvest, packing, handling, and transport details;

(iii) Pests associated with the plant including prevalence, distribution, and damage potential;

(iv) Risk management measures proposed for a pest management program; and

(v) Relevant efficacy data.

(2) A phytosanitary certificate should be issued by the NPPO of the exporting country unless APHIS and the NPPO of the exporting country agree to use other documentation in accordance with § 319.37–6(c).

(3) Other responsibilities of the NPPO of the exporting country include:

(i) Establishing and maintaining compliance agreements as necessary;

(ii) Oversight and enforcement of program provisions;

(iii) Arrangements for monitoring and audit; and

(iv) Maintaining appropriate records.

(d) *Responsibilities of plant brokers trading in plants for planting produced in accordance with integrated pest risk management measures.* Plant brokers trading in plants for planting produced in accordance with integrated pest risk management measures must be approved by the NPPO of the exporting country or its designee. The list of plant brokers must be provided to APHIS upon request. Approval may only be conferred by the NPPO or its designee after the participant demonstrates that it can meet the requirements of this paragraph (d). Approval must be withdrawn if the participant fails to meet the conditions at any time. Plant brokers must ensure the traceability of export consignments to an approved place of production or production site. Brokers must maintain the phytosanitary status of the plants equivalent to an approved place of production from purchase, storage, and transportation to the export destination. Plant brokers must document these processes for verifying status and maintaining traceability.

(e) *External audits.* APHIS and the NPPO of the exporting country will agree to the requirements for external audits.

(1) *APHIS audits.* APHIS will evaluate the integrated pest risk management measures of the NPPO of the exporting country before acceptance. This could consist of documentation review, site visits, and inspection and testing of plants produced under the system. Following approval, APHIS or its designee will monitor and periodically audit the system to ensure that it continues to meet the stated objectives. Audits will include inspection of imported plants for planting, site visits, and review of the integrated pest risk management measures and internal audit processes of the place of production and the NPPO of the exporting country.

(2) *Audits by the NPPO of the exporting country.* The NPPO must arrange for audits of the exporting system. Audits may be conducted by the NPPO or its designee and may consist of inspection and testing of plants for planting and the documentation and management practices as they relate to the program. Audits should verify that:

(i) The places of production in the program are free of quarantine pests;

(ii) Program participants are complying with the specified standards;

(iii) The integrated pest management measures continue to meet APHIS requirements; and

(iv) Arrangements with designees are complied with.

(f) *Noncompliance.* (1) The exporting NPPO must notify APHIS of noncompliance within the integrity of the system or noncompliance by a place of production that affects the phytosanitary integrity of the commodity. The requirements for notification will be determined between the NPPO of the exporting country and APHIS.

(2) Regulatory responses to program failures will be based on existing bilateral agreements. Contingency plans may be established in advance to ensure that alternative measures are available in the event that all or part of a program fails. APHIS will specify the consequences of noncompliance to the NPPO of the exporting country. The NPPO must specify the consequences of noncompliance to the participants in the program. These may vary depending on the nature and severity of the infraction. In addition, remedial measures should be specified to enable a suspended or decertified place of production or plant broker to become

eligible for reinstatement or recertification.

(3) Places of production or plant brokers that do not meet the conditions of the program must be suspended. Plants for planting must not be exported from a place of production or a plant broker that has failed to meet the program requirements.

(4) The effectiveness of remedial measures taken must be verified before reinstatement to the program by the exporting NPPO and, where appropriate, by APHIS.

(Approved by the Office of Management and Budget under control number 0579–0190)

§ 319.37–22 Trust fund agreements.

If APHIS personnel need to be physically present in an exporting country or region to facilitate the exportation of plants for planting and APHIS services are to be funded by the NPPO of the exporting country or a private export group, then the NPPO or the private export group must enter into a trust fund agreement with APHIS that is in effect at the time APHIS' services are needed. Under the agreement, the NPPO of the exporting country or the private export group must pay in advance all estimated costs that APHIS expects to incur in providing inspection services in the exporting country. These costs will include administrative expenses incurred in conducting the services and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in performing services. The agreement must require the NPPO of the exporting country or region or a private export group to deposit a certified or cashier's check with APHIS for the amount of those costs, as estimated by APHIS. The agreement must further specify that, if the deposit is not sufficient to meet all costs incurred by APHIS, the NPPO of the exporting country or a private export group must deposit with APHIS, before the services will be completed, a certified or cashier's check for the amount of the remaining costs, as determined by APHIS. After a final audit at the conclusion of each shipping season, any overpayment of funds would be returned to the NPPO of the exporting country or region or a private export group, or held on account.

(Approved by the Office of Management and Budget under control number 0579–0190)

§ 319.37–23 Postentry quarantine.

(a) *Postentry quarantine.* One specific restriction that may be placed upon the importation of a type of plants for planting in accordance with § 319.37–20 is that it be grown in postentry quarantine. The Plants for Planting Manual lists the taxa required to be imported into postentry quarantine. Plants for planting grown in postentry quarantine must be grown under postentry quarantine conditions specified in paragraphs (c) and (d) of this section, and may be imported or offered for importation into the United States only:

(1) If destined for a State that has completed a State postentry quarantine agreement with APHIS in accordance with paragraph (b) of this section;

(2) If an importer postentry quarantine growing agreement has been completed and submitted to Plant Protection and Quarantine in accordance with paragraph (c) of this section. The agreement must be signed by the person (the importer) applying for the importation of the plants for planting in accordance with § 319.6; and,

(3) If Plant Protection and Quarantine has determined that the completed postentry quarantine growing agreement fulfills the applicable requirements of this section and that services by State inspectors are available to monitor and enforce the postentry quarantine.

(b) *State postentry quarantine agreement.* Plants for planting required to undergo postentry quarantine in accordance with § 319.37–20 may only be imported if destined for postentry quarantine growing in a State which has entered into a written agreement with the Animal and Plant Health Inspection Service, signed by the Administrator or his or her designee and by the State Plant Regulatory Official. In accordance with the laws of individual States, inspection and other postentry quarantine services provided by a State may be subject to charges imposed by the State. A list of States that have entered into a postentry quarantine agreement in accordance with this paragraph can be found in the Plants for Planting Manual.

(c) *Importer postentry quarantine growing agreements.* Any plants for planting required to be grown under postentry quarantine conditions, as well as any increase therefrom, shall be grown in accordance with an importer postentry quarantine growing agreement signed by the person (the importer) applying for a written permit in accordance with § 319.37–5 for importation of the plants for planting and submitted to Plant Protection and Quarantine. On each importer postentry quarantine growing agreement, the person shall also obtain the signature of the State Plant Regulatory Official for the State in which plants for planting covered by the agreement will be grown. The importer postentry quarantine growing agreement shall specify the kind, number, and origin of plants to be imported; the conditions specified in the Plants for Planting Manual under which the plants for planting will be grown, maintained, and labeled; and the reporting requirements in the case of abnormal or dead plants for planting. The agreement shall certify to APHIS and to the State in which the plants for planting are grown that the signer of the agreement will comply with the conditions of the agreement for the postentry quarantine growing period prescribed for the type of plants for planting in the Plants for Planting Manual.

(d) *Applications for permits.* A completed importer postentry quarantine agreement shall accompany the application for a written permit for plants for planting required to be grown under postentry quarantine conditions. Importer postentry quarantine agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Permit Unit, 4700 River Road, Unit 136, Riverdale, MD 20737–1236 or on the internet at *http://www.aphis.usda.gov/permits/ppq_epermits.shtml.*

(e) *Inspector-ordered disposal, movement, or safeguarding of plants for planting; costs and charges, civil and criminal liabilities*—(1) *Growing at unauthorized sites.* If an inspector determines that any plants for planting subject to the postentry quarantine growing requirements of this section, or any increase therefrom, is being grown at an unauthorized site, the inspector may file an emergency action notification (PPQ Form 523) with the owner of the plants for planting or the person who owns or is in possession of the site on which the plants for planting is being grown. The person named in the PPQ Form 523 must, within the time specified in PPQ Form 523, sign a postentry quarantine growing agreement, destroy, ship to a point outside the United States, move to an authorized postentry quarantine site, and/or apply treatments or other safeguards to the plants for planting, the increase therefrom, or any portion of the plants for planting or the increase therefrom, as prescribed by an inspector to prevent the introduction of quarantine pests into the United States. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the quarantine pests associated with the type of plants

for planting (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(2) *Growing at authorized sites.* If an inspector determines that any plants for planting, or any increase therefrom, grown at a site specified in an authorized postentry quarantine growing agreement is being grown contrary to the provisions of this section, including in numbers greater than the number approved by the postentry quarantine growing agreement, or in a manner that otherwise presents a risk of introducing quarantine pests into the United States, the inspector shall issue an emergency action notification (PPQ Form 523) to the person who signed the postentry quarantine growing agreement. That person shall be responsible for carrying out all actions specified in the emergency action notification. The emergency action notification may extend the time for which the plants for planting and the increase therefrom must be grown under the postentry quarantine conditions specified in the authorized postentry quarantine growing agreement, or may require that the person named in the notification must destroy, ship to a point outside the United States, or apply treatments or other safeguards to the plants for planting, the increase therefrom, or any portion of the plants for planting or the increase therefrom, within the time specified in the emergency action notification. In choosing which action to order and in setting the time limit for the action, the inspector shall consider the degree of pest risk presented by the quarantine pests associated with the type of plants for planting (including increase therefrom), the types of other host materials for the pest in or near the growing site, the climate and season at the site in relation to the pest's survival, and the availability of treatment facilities.

(3) *Costs and charges.* All costs pursuant to any action ordered by an inspector in accordance with this section shall be borne by the person who signed the postentry quarantine growing agreement covering the site where the plants for planting were grown, or if no such agreement was signed, by the owner of the plants for planting at the growing site.

(Approved by the Office of Management and Budget under control number 0579–0190)

■ 13. Section 319.40–2 is amended by revising paragraph (c) to read as follows:

§ 319.40–2 General prohibitions and restrictions; relation to other regulations.

* * * * *

(c) *Regulation of articles imported for propagation or human consumption.* The requirements of this subpart do not apply to regulated articles that are allowed importation in accordance with Subpart—Plants for Planting of this part or to regulated articles imported for human consumption that are allowed importation in accordance with Subpart—Fruits and Vegetables of this part.

* * * * *

■ 14. Section 319.41 is amended as follows:

■ a. By redesignating paragraph (d) as paragraph (e); and

■ b. By adding a new paragraph (d).

The addition reads as follows:

§ 319.41 Notice of quarantine.

* * * * *

(d) The importation of plants (including any plant parts) of any of the taxa listed in paragraph (b) of this section that are for planting or capable of being planted is restricted under

Subpart—Plants for Planting of this part.

* * * * *

§ 319.41a [Amended]

■ 15. In § 319.41a, paragraph (b) is amended by removing the citation ''§ 319.37–4(a)'' and adding the citation ''§ 319.37–6(a)'' in its place.

■ 16. Section 319.55 is amended as follows:

■ a. By revising paragraphs (a) and (b);

■ b. By redesignating paragraph (d) as paragraph (e); and

■ c. By adding a new paragraph (d).

The revisions and addition read as follows:

§ 319.55 Notice of quarantine.

(a) The fact has been determined by the Secretary of Agriculture, and notice is hereby given:

(1) That injurious fungal diseases of rice, including downy mildew (*Sclerospora macrospora*), leaf smut (*Entyloma oryzae*), blight (*Oospora oryzetorum*), and glume blotch (*Melanomma glumarum*), as well as dangerous insect pests, new to and not heretofore widely prevalent or distributed within and throughout the United States, exist, as to one or more of such diseases and pests, in Europe, Asia, Africa, Central America, South America, and other foreign countries and localities, and may be introduced into this country through importations of rice straw and rice hulls; and

(2) That the unrestricted importation of rice straw and rice hulls may result in the entry into the United States of the injurious plant diseases heretofore enumerated, as well as insect pests.

(b) To prevent the introduction into the United States of the plant pests and diseases indicated above, the Secretary has determined that it is necessary to restrict the importation of rice straw and rice hulls from all foreign locations, except as otherwise provided in this subpart.

* * * * *

(d) The importation of seed or paddy rice is restricted under Subpart—Plants for Planting of this part.

* * * * *

§ 319.55–2 [Amended]

■ 17. Section 319.55–2 is amended by removing the words ''seed or paddy rice from Mexico or'' and the words ''from any country''.

§ 319.55–3 [Amended]

■ 18. Section 319.55–3 is amended as follows:

■ a. By removing paragraph (a) and redesignating paragraphs (b), (c), and (d) as paragraphs (a), (b), and (c), respectively;

■ b. In newly redesignated paragraph (a), by removing the words ''from all foreign countries''; and

■ c. In newly redesignated paragraph (b), by removing the words ''seed or paddy rice,'' and by removing the comma after the word ''straw''.

§ 319.55–6 [Amended]

■ 19. Section 319.55–6 is amended as follows:

■ a. By removing and reserving paragraph (a);

■ b. By redesignating paragraphs (c)(1) and (2) as paragraphs (b)(3) and (4), respectively; and

■ c. By removing the designation and heading of paragraph (c).

■ 20. Section 319.55–7 is revised as follows:

§ 319.55–7 Importations by mail.

Importations of rice straw and rice hulls may be made by mail or cargo, provided that a permit has been issued for the importation in accordance with §§ 319.7 through 319.7–5 and all conditions of the permit are met.

(Approved by the Office of Management and Budget under control number 0579–0049)

§ 319.56–10 [Amended]

■ 21. In § 319.56–10, paragraph (a)(2) is amended by removing the words ''§ 319.37–2 of this part'' and adding the citation ''§ 319.37–20'' in their place.

§ 319.56–11 [Amended]

■ 22. In § 319.56–11, paragraph (b)(3) is amended by removing the words ''§§ 319.37 through 319.37–14 of this part'' and adding the words ''§§ 319.37–1 through 319.37–23'' in their place.

§ 319.59–1 [Amended]

■ 23. In § 319.59–1, the definition of *grain* is amended by adding the words ''and not for planting'' before the period.

■ 24. Section 319.59–2 is amended as follows:

■ a. By removing and reserving paragraph (a);

■ b. In paragraph (b) introductory text, by removing the words ''*Triticum* spp. plants, articles'' and adding the word ''Articles'' in their place;

■ c. In paragraph (b)(1), by removing the words ''§ 319.37–14 of this part'' and adding the words ''accordance with § 319.37–8(a)'' in their place; and

■ d. By adding paragraph (c).

The addition reads as follows:

§ 319.59–2 General import prohibitions; exceptions.

* * * * *

(c) The importation of any host crops (including seed and any other plant parts) that are for planting or capable of being planted is restricted under Subpart—Plants for Planting of this part.

■ 25. Section 319.59–3 is amended by revising paragraph (a) to read as follows:

§ 319.59–3 Articles prohibited importation pending risk evaluation.

* * * * *

(a) The following articles of *Triticum* spp. (wheat) or of *Aegilops* spp. (barb goatgrass, goatgrass): Straw (other than straw, with or without heads, which has been processed or manufactured for use indoors, such as for decorative purposes or for use in toys); chaff; and products of the milling process (*i.e.,* bran, shorts, thistle sharps, and pollards) other than flour.

* * * * *

§ 319.59–4 [Amended]

■ 26. In § 319.59–4, paragraph (a)(2) is amended by removing the word ''seed,''.

§ 319.69a [Amended]

■ 27. In § 319.69a, paragraph (c) is amended by removing the citation ''§ 319.37–9'' and adding the citation ''§ 319.37–11'' in its place.

§ 319.73–1 [Amended]

■ 28. In § 319.73–1, the definition of *unroasted coffee* is amended by adding the words ''intended for processing'' before the period.

■ 29. Section 319.73–2 is amended by revising paragraphs (a)(2) and (b) to read as follows:

§ 319.73–2 Products prohibited importation.

(a) * * *

(2) Coffee leaves; and

* * * * *

(b) The importation of any coffee plants (including bare seeds, seeds in pulp, and any other plant parts) that are for planting or capable of being planted is restricted under Subpart—Plants for Planting of this part.

§ 319.74–1 [Amended]

■ 30. In § 319.74–1, the definition of *cut flower* is amended by adding the words ''and not for planting'' after the word ''state''.

§ 319.75 [Amended]

■ 31. In § 319.75, paragraph (c)(2) is amended by removing the citation ''§ 319.37–14'' and adding the words ''accordance with § 319.37–8(a)'' in its place.

§ 319.75–1 [Amended]

■ 32. Section 319.75–1 is amended by removing the definition of *nursery stock.*

■ 33. Section 319.75–2 is amended by revising footnote 1 to read as follows:

§ 319.75–2 Restricted articles.[1]

* * * * *

[1] The importation of restricted articles may be subject to prohibitions or restrictions under other provisions of 7 CFR part 319. For example, fresh whole chilies (*Capsicum* spp.) and fresh whole red peppers (*Capsicum* spp.) from Pakistan are prohibited from being imported into the United States under the provisions of Subpart—Fruits and Vegetables of this part, and the importation of any restricted articles that are for planting or capable of being planted is restricted under Subpart—Plants for Planting of this part.

§ 319.75–8 [Amended]

■ 34. Section 319.75–8 is amended by removing the words ''port of entry identified in § 319.37–14 of this part'' and adding the words ''Customs designated port of entry indicated in 19 CFR 101.3(b)(1)'' in their place.

§ 319.75–9 [Amended]

■ 35. In § 319.75–9, paragraphs (a), (b), and (c) are amended by removing the words ''nursery stock, plant,'' and the words ''root, bulb,'' each time they occur.

§ 319.77–2 [Amended]

■ 36. Section 319.77–2 is amended as follows:

■ a. In the introductory text, by removing the words ''through (g)'' and adding the words ''through (e)'' in their place; and

■ b. By removing paragraphs (b) and (c) and redesignating paragraphs (d) through (h) as (b) through (f), respectively.

■ 37. Section 319.77–4 is amended as follows:

■ a. By revising footnote 1;

■ b. In paragraphs (a)(1) introductory text and (a)(2) introductory text, by removing the words '', trees with roots, and shrubs with roots and persistent woody stems'' each time they occur; and

■ c. In paragraphs (a)(2)(i) and (ii), by removing the words ''or shrubs'' each time they occur.

The revision reads as follows:

§ 319.77–4 Conditions for the importation of regulated articles.

(a) *Trees and shrubs.*[1]

* * * * *

[1] Trees and Shrubs from Canada may be subject to additional restrictions under ''Subpart—Logs, Lumber, and Other Unmanufactured Wood Articles'' (§§ 319.40–1 through 319.40–11).

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

■ 38. The authority citation for part 330 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

§ 330.300a [Amended]

■ 39. In § 330.300a, footnote 1 is amended by removing the words ''by § 319.37–5'' and adding the words ''under §§ 319.37–1 through 319.37–23'' in their place.

PART 340—INTRODUCTION OF ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH GENETIC ENGINEERING WHICH ARE PLANT PESTS OR WHICH THERE IS REASON TO BELIEVE ARE PLANT PESTS

■ 40. The authority citation for part 340 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

§ 340.0 [Amended]

■ 41. In § 340.0, footnote 1 is amended as follows:

■ a. By removing the words ''Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products'' and adding the words ''Plants for Planting'' in their place;

■ b. By removing the citation ''7 CFR 319.37–3'' and adding the words ''§ 319.37–5 of this chapter'' in its place;

■ c. By removing the words ''nursery stock'' both times they appear and

adding the words ''plants for planting'' in their place; and

■ d. By removing the words ''stock is'' and adding the words ''plants are'' in their place.

§ 340.4 [Amended]

■ 42. In § 340.4, paragraph (f)(11)(i) is amended by removing the citation ''§ 319.37–14'' and adding the words ''accordance with § 319.37–8(a)'' in its place.

§ 340.7 [Amended]

■ 43. In § 340.7, paragraph (b) introductory text is amended by removing the citation ''§ 319.37–14'' and adding the words ''accordance with § 319.37–8(a)'' in its place.

PART 360—NOXIOUS WEED REGULATIONS

■ 44. The authority citation for part 360 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 7 CFR 2.22, 2.80, and 371.3.

§ 360.400 [Amended]

■ 45. In § 360.400, paragraph (a)(2) is amended by removing the citation ''§ 319.37–6'' and adding the words ''§ 319.37–9(c) of this chapter'' in its place, and by removing the citation ''§ 319.37–13(c)'' and adding the citation ''§ 319.37–9(c)'' in its place.

PART 361—IMPORTATION OF SEED AND SCREENINGS UNDER THE FEDERAL SEED ACT

■ 46. The authority citation for part 361 continues to read as follows:

Authority: 7 U.S.C. 1581–1610; 7 CFR 2.22, 2.80, and 371.3.

§ 361.2 [Amended]

■ 47. In § 361.2, paragraph (d) is amended by removing the words ''restrictions of § 319.37–3(a)(7)'' and adding the words ''permit requirements of § 319.37–5 of this chapter'' in their place.

Done in Washington, DC, this 9th day of March 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–05424 Filed 3–16–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 761

Revision of Delegation of Authority for the State Executive Director (SED) for the Farm Loan Programs

AGENCY: Farm Service Agency, Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This document amends the delegations of authority from the Farm Service Agency (FSA) Deputy Administrator of Farm Loan Programs (FLP). The change will specify that the Deputy Administrator redelegates certain authority to the State Executive Directors (SED). The change will also specify that SEDs may redelegate the authority to a Farm Loan Chief, Farm Loan Specialist, District Director, Farm Loan Manager, Senior Farm Loan Officer, Farm Loan Officer, Loan Analyst, Loan Resolution Specialist, or Program Technician to perform loan activities. This will ensure that certain loan documents can be signed off locally instead of requiring the FLP Deputy Administrator to have to sign off on certain loan documents.

DATES: *Effective:* March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Bruce Mair; telephone: (202) 720–1645. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600.

SUPPLEMENTARY INFORMATION:

Background

FSA makes and services a variety of direct and guaranteed loans to the nation's farmers and ranchers who are unable to obtain private commercial credit at reasonable rates and terms. FSA also provides direct loan customers with credit counseling and supervision to enhance their opportunity for success. FSA direct and guaranteed loan applicants are often beginning farmers and socially disadvantaged farmers who do not qualify for conventional loans because of insufficient net worth or established farmers who have suffered financial setbacks due to natural disasters or economic downturns. FSA tailors direct and guaranteed loans to a customer's needs and may be used to buy farmland and to finance agricultural production.

The Consolidated Farm and Rural Development Act of 1972, as amended, (CONACT) (7 U.S.C. 1921–2009dd–7)) authorizes FSA's Direct and Guaranteed Farm Loan Programs.

Redelegation to and by SEDs

As part of loan servicing, various real estate documents must be signed by FSA and the files must be on public record in certain states. Some of the real estate documents that FSA signs include, but are not limited to, lien satisfactions, partial releases, and subordinations. FSA's intent has always been for the real estate documents to be signed by FSA officials at the local level. In the past, the regulations in 7 CFR part 1900 included specific wording concerning which employees were delegated with signature authority. In 2007, when FSA streamlined the FLP regulations, 7 CFR 761.1 broadened the regulatory text concerning FLP delegations, but the original intent as to who would have the authority to sign the real estate documents did not change. FSA recently determined that more specificity in 7 CFR 761.1 regarding the delegation of authority would be helpful and is therefore revising the regulation.

FSA is amending the regulation in 7 CFR part 761 regarding the delegation of authority for the Deputy of Administrator of FLP to specify that the Deputy Administrator of FLP redelegates certain loan making and servicing authority to SEDs and when there is no loss to FSA, the SEDs may redelegate the authority to the Farm Loan Chief, Farm Loan Specialist, District Director, Farm Loan Manager, Senior Farm Loan Officer, Farm Loan Officer, Loan Analyst, Loan Resolution Specialist, or Program Technician. The revised delegation will clarify the authority for the Acting SED and other authorized officials to sign certain loan documents and to perform other loan activities for SEDs.

Notice and Comment

In general, the Administrative Procedure Act (5 U.S.C. 553) requires that a notice of proposed rulemaking be published in the **Federal Register** and interested persons be given an opportunity to participate in the rulemaking through submission of written data, views, or arguments with or without opportunity for oral presentation, except that when the rule involves a matter relating to public property, loans, grants, benefits, or contracts section 553 does not apply. This rule involves matters relating to loans and is therefore being published as a final rule without the prior opportunity for comments.

Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides generally that

before rules are issued by Government agencies, the rule is required to be published in the **Federal Register**, and the required publication of a substantive rule is to be not less than 30 days before its effective date. However, as noted above, one of the exceptions is that section 553 does not apply to rulemaking that involves a matter relating to loans. Therefore, because this rule relates to loans, the 30-day effective period requirement in section 553 does not apply. This final rule is effective when published in the **Federal Register**.

Executive Orders 12866, 13563, 13771, and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a federal policy to alleviate unnecessary regulatory burdens on the American people.

In section 3(d), Executive Order 12866 defines ''regulation'' or ''rule.'' In the definition, it specifically does not include regulations or rules that are limited to agency organization, management, or personnel matters. This rule relates to internal agency management; therefore, it is exempt from the provisions of Executive Order 12866.

Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' requires that in order to manage the private costs required to comply with Federal regulations that for every new significant or economically significant regulation issued, the new costs must be offset by the elimination of at least two prior regulations. This rule does not rise to the level required to comply with Executive Order 13771.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because FSA is not required by the Administrative Procedure Act or any other law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). FSA has determined that the provisions identified in this final rule are administrative in nature, solely relating to internal agency management, and do not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Provisions for signature authorities are purely administrative and would not alter any environmental impacts associated with any loans. Therefore, as this rule presents administrative clarifications only, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affected by proposed Federal financial assistance. The objectives of Executive Order 12372 are to foster an intergovernmental partnership and a strengthened Federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal Financial assistance and direct Federal development. For reasons specified in the final rule related notice regarding 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities within this rule are excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have a retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 are to be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or the distribution of power and responsibilities among the various levels of government, except as required by law. Nor will this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on policies that have tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes or on the distribution of power and responsibilities between the Federal government and Indian tribes.

FSA has assessed the impact of this rule on Indian tribes and determined that this rule does not, to our knowledge, have tribal implications that require tribal consultation under Executive Order 13175. If a Tribe requests consultation, FSA will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided.

Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State, local, or Tribal governments, or the private sector. Agencies generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or

to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the rule does not change the approved information collection approved under OMB control number 0560–0238, General Program Administration.

E-Government Act Compliance

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

List of Subjects in 7 CFR Part 761

Accounting, Loan programs—agriculture, Rural areas.

For reasons discussed above, FSA amends 7 CFR chapter VII as follows:

PART 761—FARM LOAN PROGRAMS; GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

■ 2. Revise § 761.1(b) to read as follows:

§ 761.1 Introduction.

* * * * *

(b) The Deputy Administrator:

(1) Delegates to each State Executive Director within the State Executive Director's jurisdiction the authority, and in the absence of the State Executive Director, the person acting in that position, to act for, on behalf of, and in the name of the United States of America or the Farm Service Agency to do and perform acts necessary in connection with making and guaranteeing loans, such as, but not limited to, making advances, servicing loans and other indebtedness, and obtaining, servicing, and enforcing or releasing security and other instruments related to the loan. For actions that do not result in a loss to the Farm Service Agency, a State Executive Director may redelegate authorities received under this paragraph to a Farm Loan Chief, Farm Loan Specialist, District Director, Farm Loan Manager, or Senior Farm Loan Officer, Farm Loan Officer, Loan Analyst, Loan Resolution Specialist, or Program Technician.

(2) May establish procedures for further redelegation or limitation of authority.

* * * * *

Steven J. Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2018–05466 Filed 3–16–18; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3434

RIN 0524–AA39

Hispanic-Serving Agricultural Colleges and Universities (HSACU) Certification Process

AGENCY: National Institute of Food and Agriculture (NIFA), USDA.

ACTION: Final rule.

SUMMARY: This amendment to NIFA regulations updates the list of institutions that are granted Hispanic-Serving Agricultural Colleges and Universities (HSACU) certification by the Secretary and are eligible for HSACU programs for the period starting October 1, 2017, and ending September 30, 2018.

DATES: This rule is effective March 19, 2018 and applicable October 1, 2017.

FOR FURTHER INFORMATION CONTACT: Joanna Moore; Senior Policy Specialist; National Institute of Food and Agriculture; U.S. Department of Agriculture; STOP 2272; 1400 Independence Avenue SW, Washington, DC 20250–2272; Voice: 202–690–6011; Fax: 202–401–7752; Email: *jmoore@nifa.usda.gov.*

SUPPLEMENTARY INFORMATION:

HSACU Institutions for Fiscal Year 2018

This rule makes changes to the existing list of institutions in appendix B of 7 CFR part 3434. The list of institutions is amended to reflect the institutions that are granted HSACU certification by the Secretary and are eligible for HSACU programs for the period starting October 1, 2017, and ending September 30, 2018.

Certification Process

As stated in 7 CFR 3434.4, an institution must meet the following criteria to receive HSACU certification: (1) Be a Hispanic-Serving Institution (HSI), (2) offer agriculture-related degrees, (3) not appear on the Excluded Parties List System (EPLS), (4) be accredited, and (5) award at least 15% of agriculture-related degrees to Hispanic students over the two most recent academic years.

NIFA obtained the latest report from the U.S. Department of Education's National Center for Education Statistics that lists all HSIs and the degrees conferred by these institutions (completion data) during the 2015–16 academic year. NIFA used this report to identify HSIs that conferred a degree in an instructional program that appears in appendix A of 7 CFR part 3434 and to confirm that over the 2014–15 and 2015–16 academic years at least 15% of the degrees in agriculture-related fields were awarded to Hispanic students. NIFA further confirmed that these institutions were nationally accredited and were not on the exclusions listing in the System for Award Management (*https://www.sam.gov/portal/SAM/##11*).

The updated list of HSACUs is based on (1) completions data from 2014–15 and 2015–16, and (2) enrollment data from Fall 2016. NIFA identified 147 institutions that met the eligibility criteria to receive HSACU certification for FY 2018 (October 1, 2017 to September 30, 2018).

Declaration of Intent To Opt Out of HSACU Designation and Apply for Non Land-Grant College of Agriculture (NLGCA) Designation

As set forth in Section 7101 of the Agricultural Act of 2014 (Pub. L. 113–79), which amends 7 U.S.C. 3103, an institution that is eligible to be designated as an HSACU may notify the Secretary of its intent not to be considered an HSACU. Institutions that opt out of HSACU designation will have the option to apply for designation as a Non-Land Grant College of Agriculture (NLGCA) institution. To opt out of designation as an HSACU, an authorized official at the institution must submit a declaration of intent not to be considered an HSACU to NIFA by email at *NLGCA.status@nifa.usda.gov.* In accordance with Section 7101, a declaration by an institution not to be considered an HSACU shall remain in effect until September 30, 2018. To be eligible for NLGCA designation, institutions must be public colleges or universities offering baccalaureate or higher degrees in the study of food and agricultural sciences, as defined in 7 U.S.C. 3103. An online form to request NLGCA designation is available at *http://nifa.usda.gov/webform/request-*

non-land-grant-college-agriculture-designation.

In FYs 2016 and 2017, one institution opted out of HSACU designation and received NLGCA designation, hence that institution is excluded from the FY 2018 HSACU list.

Appeal Process

As set forth in 7 CFR 3434.8, NIFA will permit HSIs that are not granted HSACU certification to submit an appeal within 30 days of the publication of this document.

Classification

This rule relates to internal agency management. Accordingly, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. This rule also is exempt from the provisions of Executive Order 12866. This action is not a rule as defined by the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 *et seq.,* or the Congressional Review Act, 5 U.S.C. 801 *et seq.,* and thus is exempt from the provisions of those Acts. This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 3434

Administrative practice and procedure, Agricultural research, education, extension, Hispanic-serving institutions, Federal assistance.

Accordingly, part 3434 of title 7 of the Code of Federal Regulations is amended as set forth below:

PART 3434—HISPANIC-SERVING AGRICULTURAL COLLEGES AND UNIVERSITIES CERTIFICATION PROCESS

■ 1. The authority citation for part 3434 continues to read as follows:

Authority: 7 U.S.C. 3103.

■ 2. Revise appendix B to read as follows:

Appendix B to Part 3434—List of HSACU Institutions, 2017–2018

The institutions listed in this appendix are granted HSACU certification by the Secretary and are eligible for HSACU programs for the period starting October 1, 2017, and ending September 30, 2018. Institutions are listed alphabetically under the state of the school's location, with the campus indicated where applicable.

Arizona (6)

Arizona Western College
Central Arizona College
Cochise County Community College
Phoenix College
Pima Community College
University of Arizona

California (63)

Allan Hancock College
Antioch University-Los Angeles
Bakersfield College
Cabrillo College
California Baptist University
California State University-San Bernardino
California State University-Dominguez Hills
California State University-Long Beach
California State University-Los Angeles
California State University-East Bay
University of California-Irvine
University of California-Riverside
University of California-Santa Barbara
University of California-Santa Cruz
California Lutheran University
Chaffey College
Craft Hills College
College of the Desert
College of the Sequoias
Cosumnes River College
Cuesta College
Cuyamaca College
El Camino Community College District
Foothill College
Fresno Pacific University
Fullerton College
Golden West College
Hartnell College
Imperial Valley College
Las Positas College
Long Beach City College
Los Angeles Pierce College
Mendocino College
Merced College
Mills College
MiraCosta College
Modesto Junior College
Mt. San Antonio College
Mt. San Jacinto Community College District
Napa Valley College
National University
Orange Coast College
Pacific Union College
Porterville College
Reedley College
Santa Ana College
Santa Barbara City College
Santa Monica College
San Bernardino Valley College
San Diego City College
San Diego Mesa College
San Diego State University
San Jose State University
Saint Mary's College of California
Southwestern College
University of California-Irvine
University of California-Riverside
University of California-Santa Cruz
Victor Valley College
West Hills College-Coalinga
Whittier College
Woodland Community College
Yuba College

Colorado (2)

Aims Community College
Community College of Denver

Florida (5)

Broward College
Florida International University
Miami Dade College
Palm Beach State College
Valencia College

Illinois (1)

Dominican University

Kansas (3)

Dodge City Community College
Garden City Community College
Seward County Community College and Area Technical School

Massachusetts (1)

Springfield Technical Community College

Nevada (2)

College of Southern Nevada
Truckee Meadows Community College

New Jersey (5)

Essex County College
Kern University
Saint Peter's University

New Mexico (10)

Central New Mexico Community College
Eastern New Mexico University-Main Campus
Eastern New Mexico University-Ruidoso Campus
Mesalands Community College
New Mexico Highlands University
Northern New Mexico College
Santa Fe Community College
Western New Mexico University
University of New Mexico–Los Alamos Campus
University of New Mexico-Main Campus

New York (5)

CUNY City College
CUNY Hunter College
CUNY LaGuardia Community College
Mercy College
SUNY Westchester Community College

Oregon (1)

Chemeketa Community College

Puerto Rico (15)

Instituto Tecnologico de Puerto Rico-Recinto de Manati
Inter American University of Puerto Rico-Aguadilla
Inter American University of Puerto Rico-Bayamon
Inter American University of Puerto Rico-Metro
Inter American University of Puerto Rico-San German
Inter American University of Puerto Rico-Ponce
Pontifical Catholic University of Puerto Rico–Ponce
Universidad Del Turabo
Universidad Metropolitana
University of Puerto Rico-Arecibo
University of Puerto Rico-Humacao
University of Puerto Rico-Utuado
University of Puerto Rico-Medical Sciences
University of Puerto Rico-Rio Piedras
University of Puerto Rico-Mayaguez

Texas (24)

Concordia University-Texas
Houston Community College
McLennan Community College
Odessa College
Palo Alto College
Saint Edwards's University
San Antonio College
Southwest Texas Junior College
South Plains College
St. Mary's University
Tarrant County College District
Texas State Technical College
Texas A & M International University
Texas A & M University-Corpus Christi
The University of Texas at El Paso
The University of Texas Rio Grande Valley
The University of Texas at San Antonio
The University of Texas at Brownsville
University of Houston
University of Houston-Clear Lake
University of the Incarnate Word
University of St. Thomas
Western Texas College
Wayland Baptist University

Washington (4)

Columbia Basin College
Heritage University
Wenatchee Valley College
Yakima Valley Community College

Done in Washington, DC, this 8th day of March 2018.

Sonny Ramaswamy,

Director, National Institute of Food and Agriculture.

[FR Doc. 2018–05541 Filed 3–16–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0903; Product Identifier 2017–NM–074–AD; Amendment 39–19225; AD 2018–06–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–300 and –500 series airplanes. This AD was prompted by a report indicating that fatigue cracks were found in the lower wing skin of an airplane with winglets installed. This AD requires repetitive inspections for cracking of the lower wing skin, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective April 23, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 23, 2018.

ADDRESSES: For service information identified in this final rule, contact Aviation Partners Boeing, 2811 South 102nd St., Suite 200, Seattle, WA 98168; phone: 1–206–830–7699; fax: 1–206–767–3355; email: *leng@aviationpartners.com;* internet: *http://www.aviationpartnersboeing.com.* You may view this 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–2017–0903.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0903; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3525; email: *lu.lu@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–300 and –500 series airplanes. The NPRM published in the **Federal Register** on October 6, 2017 (82 FR 46725). The NPRM was prompted by a report indicating that fatigue cracks were found in the lower wing skin of an airplane with winglets installed. The NPRM proposed to require repetitive inspections for cracking of the lower wing skin, and repair if necessary.

We are issuing this AD to detect and correct fatigue cracking of the lower wing skin common to the runout of stringer L–5. Such cracking could grow and result in loss of structural integrity of the wing, and consequent reduced, or complete loss of, controllability of the airplane.

Comments

We gave the public the opportunity to participate in developing this final rule. The following presents the comments received on the NPRM and the FAA's response to each comment. Aviation Partners Boeing concurred with the proposed AD.

Request for Manufacturer To Share Expense

One commenter, Mary Lou Allen, requested that the airplane manufacturer share in the expense with the airplane's purchaser or owner, because of the high costs associated with supplemental type certificates. We infer that the commenter wants manufacturers to be required to help pay for compliance with the proposed AD.

We do not agree to this request. We provide estimates of the cost on U.S. operators for AD compliance, but do not determine who is responsible for payment. We are aware that airplane manufacturers and modifiers often have warranty agreements with owners and operators to cover some or all of the costs of modifications or repairs, but we do not participate in these agreements. We have not changed this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. We have determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

We reviewed Aviation Partners Boeing Service Bulletin AP737C–57–002, dated April 5, 2017. The service information describes procedures for repetitive inspections for cracking of the lower wing skin, and repair if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 93 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive inspection	1 work-hour × $85 per hour = $85 per inspection cycle.	$0	$85 per inspection cycle.	Up to $7,905 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 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 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

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–06–05 The Boeing Company: Amendment 39–19225; Docket No. FAA–2017–0903; Product Identifier 2017–NM–074–AD.

(a) Effective Date

This AD is effective April 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–300 and –500 series airplanes, certificated in any category, with blended winglet kits installed in accordance with Supplemental Type Certificate (STC) ST01219SE.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report indicating that fatigue cracks were found in the lower wing skin at stringer L–5 of a Boeing Model 737–300 airplane with winglets installed. We are issuing this AD to detect and correct fatigue cracking of the lower wing skin common to the runout of stringer L–5. Such cracking could grow and result in loss of structural integrity of the wing, and consequent reduced, or complete loss of, controllability of the airplane.

(f) Compliance

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

(g) Repetitive Inspection

Within 18 months after the effective date of this AD: Do a detailed inspection for cracking of the lower wing skin external surface at the stringer L–5 location on the left and right wings, in accordance with the Accomplishment Instructions of Aviation Partners Boeing Service Bulletin AP737C–57–002, dated April 5, 2017. Repeat the inspection thereafter at intervals not to exceed 6,000 flight cycles or 9,000 flight hours, whichever occurs first.

(h) Repair

If any crack is found during any inspection required by paragraph (g) of this AD, repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Although Aviation Partners Boeing Service Bulletin AP737C–57–002, dated April 5, 2017, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair as specified in this paragraph.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager

of the local flight standards district office/ certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) Except as required by paragraph (h) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled ''RC Exempt,'' then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(j) Related Information

For more information about this AD, contact Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3525; email: *lu.lu@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Aviation Partners Boeing Service Bulletin AP737C–57–002, dated April 5, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Aviation Partners Boeing, 2811 South 102nd St., Suite 200, Seattle, WA 98168; phone: 1–206–830–7699; fax: 1–206–767–3355; email: *leng@aviationpartners.com;* internet: *http://www.aviationpartnersboeing.com.*

(4) You may view this 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.

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

Issued in Renton, Washington, on March 5, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–05016 Filed 3–16–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0210; Product Identifier 2018–CE–004–AD; Amendment 39–19229; AD 2018–06–09]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for Pacific Aerospace Limited Model 750XL airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the possibility for the control column to snag on the cockpit control tee handles on certain airplanes. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective April 9, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 9, 2018.

We must receive comments on this AD by May 3, 2018.

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

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

For service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: *pacific@aerospace.co.nz;* internet: *www.aerospace.co.nz.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0210.

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–2018–0210; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority, which is the aviation authority for New Zealand, has issued CAA AD DCA/750XL/22, dated December 19, 2017 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pacific Aerospace Limited Model 750XL airplanes. To accompany that MCAI, the CAA issued Notification of Airworthiness Directive issued for New Zealand Aeronautical Products IAW ICAO Annex 8, dated December 21, 2017; the Notification states:

> This [CAA] AD is prompted by a ground inspection which found it is possible for the control column to snag on the cockpit control tee handles on certain aircraft. When the tee handle is pulled out to the maximum limit it fouls with the control column in the extreme forward right and left positions. The tee handles are mounted below the switch panels adjacent to the centre console.
>
> This [CAA] AD with effective date 28 December 2017 mandates the inspection and corrective actions per the Accomplishment

Instructions in Pacific Aerospace Mandatory Service Bulletin (MSB) PACSB/XL/093 issue 1, dated 15 December 2017, or later approved revision.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0210.

Related Service Information Under 1 CFR Part 51

Pacific Aerospace Limited has issued Pacific Aerospace Mandatory Service Bulletin PACSB/XL/093, Issue 1, dated December 15, 2017. The service information describes procedures for inspecting the ventilation, heater, and air filter bypass control tee handles for snagging of the control column, and adjustment of the control tee handle if necessary. 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 of the AD.

FAA's Determination and Requirements of the AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because interference with the control column operations can result in the flight controls becoming jammed, which could result in uncontrollable flight. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0210; Directorate Identifier 2018–CE–004–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD 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 AD.

Costs of Compliance

We estimate that this AD will affect 22 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $3,740, or $170 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2018–06–09 Pacific Aerospace Limited: Amendment 39–19229; Docket No. FAA–2018–0210; Directorate Identifier 2018–CE–004–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 9, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pacific Aerospace Limited Models 750XL airplanes, all serial numbers up to and including serial number XL215, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the possibility for the control column to snag on the cockpit control tee handles on certain aircraft. We are issuing this AD to prevent the control tee handles from snagging the control column and becoming jammed, which could result in uncontrollable flight.

(f) Actions and Compliance

Unless already done, do the actions in paragraph (f)(1) and (2) of this AD following the Accomplishment Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/093, Issue 1, dated December 15, 2017.

(1) Within 30 days after April 9, 2018 (the effective date of this AD), inspect the ventilation, heater, and air filter bypass control tee handles (as applicable) for snagging of the control column.

(2) If the control column snags the adjacent heater, ventilation, or an engine air filter bypass control tee handle during the inspection required in paragraph (f)(1) of this AD, before further flight, reorient the affected tee handle.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, Standards Office, FAA; or the Civil Aviation Authority of New Zealand (CAA).

(h) Related Information

Refer to the MCAI by the CAA, AD DCA/750XL/23, dated December 28, 2017; and Pacific Aerospace Mandatory Service Bulletin PACSB/XL/093, Issue 1, dated December 15, 2017, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0210.

(i) Material Incorporated by Reference

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

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

(i) Pacific Aerospace Mandatory Service Bulletin PACSB/XL/093, Issue 1, dated December 15, 2017.

(ii) Reserved.

(3) For service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: *pacific@aerospace.co.nz;* internet: *www.aerospace.co.nz.*

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0210.

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

Issued in Kansas City, Missouri, on March 9, 2018.

Pat Mullen,

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

[FR Doc. 2018–05355 Filed 3–16–18; 8:45 am]

BILLING CODE 4910–13–P

SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 801

General Policies

AGENCY: Susquehanna River Basin Commission.

ACTION: Final rule.

SUMMARY: This document contains rules that amend the regulations of the Susquehanna River Basin Commission (Commission) to codify the Commission's Access to Records Policy providing rules and procedures for the public to request and receive the Commission's public records.

DATES: The rule is effective March 19, 2018.

ADDRESSES: Susquehanna River Basin Commission, 4423 N Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Esq., General Counsel, 717–238–0423, ext. 1312; *joyler@srbc.net.* Also, for further information on the final rule, visit the Commission's website at *http://www.srbc.net.*

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the **Federal Register** on October 12, 2017 (82 FR 47407); *New York Register* on October 25, 2017; *Pennsylvania Bulletin* on October 21, 2017; and *Maryland Register* on October 27, 2017. The Commission convened a public hearing on November 2, 2017, in Harrisburg, Pennsylvania. A written comment period was held open through November 13, 2017.

The Commission received one comment on the proposed rule, which was supportive of the Commission's efforts to formalize its Access to Records Policy. The Commission also received two comments after the close of the official public comment period suggesting some changes to rulemaking.

Based upon input from the Commission's member jurisdictions, subsection (b)(4) is amended and a new subsection (f) is added to create an exception to records subject to public access for those internal, pre-decisional deliberations between staff and member jurisdictions working in cooperation with the Commission. The Commission will also modify § 801.14(b)(1) to clarify that it does not prohibit the Commission from providing salary information in response to records requests, as the Commission has historically released these records upon request. Section 801.14(b)(8) is also modified to exclude the provision of financial documents related to critical infrastructure.

Based on public input the Commission clarifies the following:

- The Commission does intend to review and revisit its Access to Records Policy after adoption of the final rule to update its procedures.
- The final rule, § 801.14(c)(3), provides that the Commission must respond in a reasonable time frame. The Commission works with requesters and generally responds to records requests within 30 days of the request. The reasonable timeframe language allows the Commission to deal with requests varying in complexity and magnitude while continuing to balance prompt access to records with the agency's other obligations and limitations.

Through this final rule, the Commission continues its long tradition of transparency by formalizing the key elements of its Access to Records Policy in duly promulgated regulations. The Commission's 2009 Access to Records Policy, which remains in effect, can be found at: *http://www.srbc.net/pubinfo/docs/2009-02_Access_to_Records_Policy_20140115.pdf.* The Commission's current records processing fee schedule can be found at: *http://www.srbc.net/pubinfo/docs/RecordsProcessingFeeScheduleUpdatedAddress.pdf.*

List of Subjects in 18 CFR Part 801

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission amends 18 CFR part 801 as follows:

PART 801—GENERAL POLICIES

■ 1. The authority citation for part 801 is revised to read as follows:

Authority: Secs. 3.1, 3.4, 3.5(1), 15.1 and 15.2, Pub. L. 91–575 (84 Stat. 1509 *et seq.*).

■ 2. Add § 801.14 to read as follows:

§ 801.14 Public access to records.

(a) *Purpose.* The Commission, as an independent compact agency, is not subject to any of its member jurisdictions' laws regarding public access to records. Nevertheless, the Commission wishes to assure, to the maximum extent practicable, the availability of Commission records consistent with the Susquehanna River Basin Compact. The Commission shall maintain an ''Access to Records Policy'' that outlines the details and procedures related to public access to the Commission's records. Any revisions to this policy shall be consistent with this section and undertaken in accordance with appropriate public notice and comment consistent with requirements of 18 CFR 808.1(b).

(b) *Scope.* This section shall apply to all recorded information, regardless of whether the information exists in written or electronic format. There is a strong presumption that records shall be public, except where considerations of privacy, confidentiality, and security must be considered and require thoughtful balancing. The Commission shall identify types of records that are not subject to public access:

(1) Personnel or employment records, excluding salary information;

(2) Trade secrets, copyrighted material, or any other confidential business information;

(3) Records exempted from disclosure by statute, regulation, court order, or recognized privilege;

(4) Records reflecting internal pre-decisional deliberations, including deliberations between the commission and representatives of member jurisdictions;

(5) Records reflecting employee medical information, evaluations, tests or other identifiable health information;

(6) Records reflecting employee personal information, such as social security number, driver's license number, personal financial information, home addresses, home or personal cellular numbers, confidential personal information, spouse names, marital status or dependent information;

(7) Investigatory or enforcement records that would interfere with active enforcement proceedings or individual due process rights, disclose the identity of public complainants or confidential sources or investigative techniques or endanger the life or safety of Commission personnel; or

(8) Records related to critical infrastructure, excluding financial records, emergency procedures, or facilities.

(c) *Procedures.* The Access to Records Policy will detail the necessary procedures for requesting records and processing records requests:

(1) Requests shall be in writing and shall be reasonably specific;

(2) The Commission shall identify an Access to Records Officer to handle requests;

(3) The Commission shall respond to a records request within a reasonable time and in consideration of available resources and the nature of the request;

(4) The Commission shall not be required to create a record that does not already exist, or to compile, maintain, format or organize a public record in a manner in which the Commission does not currently practice;

(5) A procedure shall be identified for electronic transfer, copying or otherwise providing records in a manner that maintains the integrity of the Commission's files; and

(6) A procedure shall be identified for handling review of requests that seek access to information that has been identified as confidential and for notifying the person(s) who submitted the confidential information that it is subject to a records request.

(d) *Fees.* The Commission shall adopt and maintain a ''Records Processing Fee Schedule.'' The fees shall be calculated to reflect the actual costs to the Commission for processing records requests and may include the costs of reproducing records and the cost to search, prepare and/or redact records for extraordinary requests.

(e) *Appeals.* Any person aggrieved by a Commission action on a records request shall have 30 days to appeal a decision in accordance with 18 CFR 808.2.

(f) *Disclosure to consultants, advisory committees, and State and local government officials and employees.* Data and information otherwise exempt from public disclosure may be disclosed to Commission consultants, advisory committees, and state and local government officials and employees for use only in their work in cooperation with the Commission. Such persons are thereafter subject to the same restrictions with respect to the disclosure of such data and information as any other Commission employee.

Dated: March 13, 2018.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2018–05425 Filed 3–16–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary of the Treasury

31 CFR Part 50

Office of Foreign Assets Control

31 CFR Parts 501, 535, 536, 538, 539, 541, 542, 544, 546, 547, 548, 549, 560, 561, 566, 576, 584, 588, 592, 594, 595, 597, and 598

Financial Crimes Enforcement Network

31 CFR Part 1010

Inflation Adjustment of Civil Monetary Penalties

AGENCY: Departmental Offices, Financial Crimes Enforcement Network, and Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') publishes this final rule to adjust its civil monetary penalties (''CMPs'') for inflation as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (collectively referred to herein as ''the Act''). This rule adjusts CMPs within the jurisdiction of certain components of the Department to the maximum amount required by the Act.

DATES: Effective March 19, 2018.

FOR FURTHER INFORMATION CONTACT: For information regarding the Terrorism Risk Insurance Program's CMPs, contact Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), Kevin Meehan, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, at (202) 622–7009 (not a toll-free number), or Lindsey Baldwin, Senior Policy Analyst, Federal Insurance Office, at (202) 622–3220 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

For information regarding Financial Crimes Enforcement Network's CMPs, contact the FinCEN Resource Center at (800) 767–2825 or email *frc@fincen.gov.*

For information regarding the Office of Foreign Assets Control's CMPs, contact the Assistant Director for Enforcement, tel.: 202–622–2430;

Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

I. Background

In order to improve the effectiveness of CMPs and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note (''the Inflation Adjustment Act''), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114–74) (''the 2015 Act''), requires Federal agencies to adjust each CMP provided by law within the jurisdiction of the agency. The 2015 Act requires agencies to adjust the level of CMPs with an initial ''catch-up'' adjustment through an interim final rulemaking and to make subsequent annual adjustments for inflation, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. The Department's initial catch-up adjustment interim final rules were published on June 30, 2016 (FinCEN) (81 FR 42503), July 1, 2016 (OFAC) (81 FR 43070), and December 7, 2016 (Departmental Offices) (81 FR 88600). The Department's 2017 annual adjustment was published on February 10, 2017 (82 FR 10434). The 2015 Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.[1]

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is required by the 2015 Act. Under the 2015 Act and the Office of Management and Budget guidance required by the 2015 Act, annual inflation adjustments subsequent to the initial catch-up adjustment are to be based on the percent change between the Consumer Price Index for all Urban Consumers (''CPI–U'') for the October preceding the date of the adjustment and the prior year's October CPI–U. As set forth in Office of Management and Budget Memorandum M–18–03 of December 15, 2017, the adjustment multiplier for 2018 is 1.02041. In order to complete the 2018 annual adjustment, each current CMP is multiplied by the 2018 adjustment multiplier. Under the 2015 Act, any increase in CMP must be rounded to the nearest multiple of $1.

Procedural Matters

1. Administrative Procedure Act

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Section 701(b)) requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs, without needing to provide notice and the opportunity for public comment required by 5 U.S.C. 553. Additionally, the methodology used, effective 2017, for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. The Department is charged only with performing ministerial computations to determine the dollar amount of adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity for public comment and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866

This rule is not a significant regulatory action as defined in section 3.f of Executive Order 12866.

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Public Law 104–13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects

31 CFR Part 50

Insurance, Terrorism.

31 CFR Parts 501, 535, 536, 538, 539, 541, 542, 544, 546, 547, 548, 549, 560, 561, 566, 576, 584, 588, 592, 594, 595, 597, and 598

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

31 CFR Part 1010

Authority delegations (Government agencies), Banks and banking, Currency, Investigations, Law enforcement, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 50, chapter V, and part 1010 of title 31 of the Code of Federal Regulations are amended as follows:

PART 50—TERRORISM RISK INSURANCE PROGRAM

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 321; Title I, Pub. L. 107–297, 116 Stat. 2322, as amended by Pub. L. 109–144, 119 Stat. 2660, Pub. L. 110–160, 121 Stat. 1839 and Pub. L. 114–1, 129 Stat. 3 (15 U.S.C. 6701 note); Pub. L. 114–74, 129 Stat. 601, Title VII (28 U.S.C. 2461 note).

■ 2. Amend § 50.83 by revising paragraph (a) to read as follows:

§ 50.83 Adjustment of civil monetary penalty amount.

(a) *Inflation adjustment.* Any penalty under the Act and these regulations may not exceed the greater of $1,360,525 and, in the case of any failure to pay, charge, collect or remit amounts in accordance with the Act or these regulations such amount in dispute.

* * * * *

PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

■ 3. The authority citation for part 501 continues to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

Subpart D—Trading With the Enemy Act (TWEA) Penalties

§ 501.701 [Amended]

■ 4. Amend § 501.701 as follows:

■ a. In the note to paragraph (a)(1), remove ''As of January 15, 2017,'' ; and remove ''$85,236'' and add in its place ''$86,976''.

■ b. In paragraph (a)(3), remove ''$85,236'' and add in its place ''$86,976''.

■ 5. Amend appendix A to part 501 as follows:

■ a. In section V.B.2.a.i., remove ''$144,619'' and add in its place ''$147,571'', and remove ''$289,238'' and add in its place ''$295,141''.

■ b. In section V.B.2.a.ii., remove ''$289,238'' in all three locations where it appears, and add in its place in all three locations ''$295,141''.

[1] However, the increased CMPs apply only with respect to underlying violations occurring after the date of enactment of the 2015 Act, *i.e.,* after November 2, 2015.

■ c. Revise the note to paragraph (a) of section V.B.2.a. to read as follows:

Appendix A to Part 501—Economic Sanctions Enforcement Guidelines

* * * * *

B. * * *

2. * * *

a. * * *

Note to paragraph (a): The applicable statutory maximum civil penalty per violation for each statute enforced by OFAC is as follows: International Emergency Economic Powers Act (IEEPA)—greater of $295,141 or twice the amount of the underlying transaction; Trading with the Enemy Act (TWEA)—$86,976; Foreign Narcotics Kingpin Designation Act (FNKDA)—$1,466,485; Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)—greater of $77,909 or twice the amount of which a financial institution was required to retain possession or control; and Clean Diamond Trade Act (CDTA)—$13,333. The civil penalty amounts authorized under these statutes are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

The following matrix represents the base amount of the proposed civil penalty for each category of violation:

BASE PENALTY MATRIX

		Egregious Case	
		NO	**YES**
Voluntary Self-Disclosure	**YES**	(1) One-Half of Transaction Value (capped at lesser of $147,571 or one-half of the applicable statutory maximum per violation)	(3) One-Half of Applicable Statutory Maximum
	NO	(2) Applicable Schedule Amount (capped at lesser of $295,141 or the applicable statutory maximum per violation)	(4) Applicable Statutory Maximum

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

■ 6. The authority citation for part 535 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 112; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR, 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

Subpart G—Penalties

§ 535.701 [Amended]

■ 7. In the note to paragraph (a)(1) in § 535.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 536—NARCOTICS TRAFFICKING SANCTIONS REGULATIONS

■ 8. The authority citation for part 536 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

Subpart G—Penalties

§ 536.701 [Amended]

■ 9. In the note to paragraph (a)(1) in § 536.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 538—SUDANESE SANCTIONS REGULATIONS

■ 10. The authority citation for part 538 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 7201–7211; Pub. L. 109–344, 120 Stat. 1869; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244.

Subpart G—Penalties

§ 538.701 [Amended]

■ 11. In the note to paragraph (a)(1) in § 538.701 , remove ''As of January 15, 2017'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 539—WEAPONS OF MASS DESTRUCTION TRADE CONTROL REGULATIONS

■ 12. The authority citation for part 539 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 2751–2799aa-2; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200.

Subpart G—Penalties

§ 539.701 [Amended]

■ 13. In the note to paragraph (a)(1) in § 539.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 541—ZIMBABWE SANCTIONS REGULATIONS

■ 14. The authority citation for part 541 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13288, 68 FR 11457, 3 CFR, 2003 Comp., p. 186; E.O. 13391, 70 FR 71201, 3 CFR, 2005 Comp., p. 206; E.O. 13469, 73 FR 43841, 3 CFR, 2008 Comp., p. 1025.

Subpart G—Penalties

§ 541.701 [Amended]

■ 15. In the note to paragraph (a)(1) in § 541.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 542—SYRIAN SANCTIONS REGULATIONS

■ 16. The authority citation for part 542 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 18 U.S.C. 2332d; 22 U.S.C. 287c; 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1701 note); E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168; E.O. 13399, 71 FR 25059, 3 CFR, 2006 Comp., p. 218; E.O. 13460, 73 FR 8991, 3 CFR 2008 Comp., p. 181; E.O. 13572, 76 FR 24787, 3 CFR 2011 Comp., p. 236; E.O. 13573, 76 FR 29143, 3 CFR 2011 Comp., p. 241; E.O. 13582, 76 FR 52209, 3 CFR 2011 Comp., p. 264; E.O. 13606, 77 FR 24571, 3 CFR 2012 Comp., p. 243.

Subpart G—Penalties

§ 542.701 [Amended]

■ 17. In the note to paragraph (a)(1) in § 542.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 544—WEAPONS OF MASS DESTRUCTION PROLIFERATORS SANCTIONS REGULATIONS

■ 18. The authority citation for part 544 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Public Law 110–96, 121 Stat. 1011; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13382, 70 FR 38567, 3 CFR, 2005 Comp., p. 170.

Subpart G—Penalties

§ 544.701 [Amended]

■ 19. In the note to paragraph (a)(1) in § 544.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 546—DARFUR SANCTIONS REGULATIONS

■ 20. The authority citation for part 546 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220.

Subpart G—Penalties

§ 546.701 [Amended]

■ 21. In the note to paragraph (a)(1) in § 546.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 547—DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS REGULATIONS

■ 22. The authority citation for part 547 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13413, 71 FR 64105, 3 CFR, 2006 Comp., p. 247.

Subpart G—Penalties

§ 547.701 [Amended]

■ 23. In the note to paragraph (a)(1) in § 547.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 548—BELARUS SANCTIONS REGULATIONS

■ 24. The authority citation for part 548 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13405, 71 FR 35485; 3 CFR, 2007 Comp., p. 231.

Subpart G—Penalties

§ 548.701 [Amended]

■ 25. In the note to paragraph (a)(1) in § 548.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 549—LEBANON SANCTIONS REGULATIONS

■ 26. The authority citation for part 549 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13441, 72 FR 43499, 3 CFR, 2008 Comp., p. 232.

Subpart G—Penalties

§ 549.701 [Amended]

■ 27. In the note to paragraph (a)(1) in § 549.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 560—IRANIAN TRANSACTIONS AND SANCTIONS REGULATIONS

■ 28. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Public Law 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Public Law 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Public Law 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Public Law 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p.

215; E.O. 13628, 77 FR 62139, 3 CFR, 2012 Comp., p. 314.

Subpart G—Penalties

§ 560.701 [Amended]

■ 29. In the note to paragraph (a)(1) in § 560.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

■ 30. The authority citation for part 561 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, 3 CFR, 2010 Comp., p. 253; E.O. 13599, 77 FR 6659, February 8, 2012; E.O. 13622, 77 FR 45897, August 2, 2012; E.O. 13628, 77 FR 62139, October 12, 2012.

Subpart G—Penalties

§ 561.701 [Amended]

■ 31. In the note to paragraph (a) in § 561.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 566—HIZBALLAH FINANCIAL SANCTIONS REGULATIONS

■ 32. The authority citation for part 566 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114–102.

Subpart G—Penalties

§ 566.701 [Amended]

■ 33. In the note to paragraph (a) in § 566.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 576—IRAQ STABILIZATION AND INSURGENCY SANCTIONS REGULATIONS

■ 34. The authority citation for part 576 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 110–96, 121 Stat. 1011; E.O. 13303, 68 FR 31931, 3 CFR, 2003 Comp., p. 227; E.O. 13315, 68 FR 52315, 3 CFR, 2003 Comp., p. 252; E.O. 13350, 69 FR 46055, 3 CFR, 2004 Comp., p. 196; E.O. 13364, 69 FR 70177, 3 CFR, 2004 Comp., p. 236; E.O. 13438, 72 FR 39719, 3 CFR, 2007 Comp., p. 224; E.O. 13668, 79 FR 31019, 3 CFR, 2014 Comp., p. 248.

Subpart G—Penalties

■ 35. In the note to paragraph (a)(1) in§ 576.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 584—MAGNITSKY ACT SANCTIONS REGULATIONS

■ 36. The authority citation for part 584 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 112–208, 126 Stat. 1502, (22 U.S.C. 5811 note).

§ 584.701 [Amended]

■ 37. In the note to paragraph (a)(1) in § 584.701, remove ''As of December 21, 2017,''; and remove ''$239,238'' and add in its place ''$295,141''.

PART 588—WESTERN BALKANS STABILIZATION REGULATIONS

■ 38. The authority citation for part 588 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13219, 66 FR 34777, 3 CFR, 2001 Comp., p. 778; E.O. 13304, 68 FR 32315, 3 CFR, 2004 Comp. p. 229.

Subpart G—Penalties

§ 588.701 [Amended]

■ 39. In the note to paragraph (a)(1) in § 588.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 592—ROUGH DIAMONDS CONTROL REGULATIONS

■ 40. The authority citation for part 592 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); Pub. L. 108–19, 117 Stat. 631 (19 U.S.C. 3901–3913); E.O. 13312, 68 FR 45151 3 CFR, 2003 Comp., p. 246.

Subpart F—Penalties

§ 592.601 [Amended]

■ 41. In the note to paragraph (a)(1) in § 592.601, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$13,066'' and add in its place ''$13,333''.

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

■ 42. The authority citation for part 594 continues to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; Pub. L. 115–44, 131 Stat. 886 (22 U.S.C. 9401 *et seq.*), E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13268, 67 FR 44751, 3 CFR, 2002 Comp., p. 240; E.O. 13284, 68 FR 4075, 3 CFR, 2003 Comp., p. 161; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159.

Subpart G—Penalties

§ 594.701 [Amended]

■ 43. In the note to paragraph (a)(1) in § 594.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 595—TERRORISM SANCTIONS REGULATIONS

■ 44. The authority citation for part 595 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 319; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13372, 70 FR 8499, 3 CFR, 2006 Comp., p. 159.

Subpart G—Penalties

§ 595.701 [Amended]

■ 45. In the note to paragraph (a)(1) in § 595.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$289,238'' and add in its place ''$295,141''.

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

■ 46. The authority citation for part 597 continues to read as follows:

Authority: 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

Subpart G—Penalties

§ 597.701 [Amended]

■ 47. In the note to paragraph (b) in § 597.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$76,351'' and add in its place ''$77,909''.

PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS

■ 48. The authority citation for part 598 continues to read as follows:

Authority: 3 U.S.C. 301; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note).

Subpart G—Penalties

§ 598.701 [Amended]

■ 49. In the note to paragraph (a)(3) in § 598.701, remove ''As of January 15, 2017, the'' and add in its place ''The'', and remove ''$1,437,153'' and add in its place ''$1,466,485''.

PART 1010—GENERAL PROVISIONS

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

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314 and 5316–5332; title III, sec. 314, Pub. L. 107–56, 115 Stat. 307; sec. 701. Pub. L. 114–74, 129 Stat. 599.

■ 51. Amend § 1010.821 by revising Table 1 of § 1010.821 to read as follows:

§ 1010.821 Penalty adjustment and table.

* * * * *

(b) * * *

TABLE 1 OF § 1010.821—PENALTY ADJUSTMENT TABLE

U.S. Code citation	Civil monetary penalty description	Penalties as last amended by statute	New maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed after 8/1/2016 but before 1/16/2017	New maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed after 1/15/2017
12 U.S.C. 1829b(j)	Relating to Recordkeeping Violations For Funds Transfers.	$10,000	$20,111	$20,521
12 U.S.C. 1955	Willful or Grossly Negligent Recordkeeping Violations.	10,000	20,111	20,521
31 U.S.C. 5318(k)(3)(C).	Failure to Terminate Correspondent Relationship with Foreign Bank.	10,000	13,603	13,881
31 U.S.C. 5321(a)(1).	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements.	25,000–100,000	54,789–219,156	55,907–223,629
31 U.S.C. 5321(a)(5)(B)(i)..	Foreign Financial Agency Transaction—Non-Willful Violation of Transaction.	10,000	12,663	12,921
31 U.S.C. 5321(a)(5)(C).	Foreign Financial Agency Transaction—Willful Violation of Transaction.	100,000	126,626	129,210
31 U.S.C. 5321(a)(6)(A).	Negligent Violation by Financial Institution or Non-Financial Trade or Business.	500	1,096	1,118
31 U.S.C. 5321(a)(6)(B).	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	50,000	85,236	86,976
31 U.S.C. 5321(a)(7).	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	1,000,000	1,360,317	1,388,081
31 U.S.C. 5330(e) ..	Civil Penalty for Failure to Register as Money Transmitting Business.	5,000	8,084	8,249

Ryan Brady,

Executive Secretary.

[FR Doc. 2018–05550 Filed 3–16–18; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2018–0096]

RIN 1625–AA08

Special Local Regulation; Clinch River, Oak Ridge, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for all navigable waters of the Clinch River, extending the entire width of the river, from mile marker (MM) 49.5 to MM 52.0. This special local regulation is necessary to provide for the safety of life on these navigable waters near Oak Ridge, TN during the Cardinal Invitational Regatta marine event. Entry into, transiting through, or anchoring within this regulated area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (COTP) or a designated representative.

DATES: This rule is effective from 6 a.m. on March 16, 2018 through 5 p.m. on March 18, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0096 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 Vera Max, Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *MSDNashville@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
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. We must establish this restricted area by March 16, 2018 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the special local regulation until after the scheduled date of the marine event and jeopardize public safety.

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 this rule would be impracticable and contrary to the public interest because immediate action is necessary to protect persons and property from the dangers associated with the marine event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the Oak Ridge Rowing Association Cardinal Invitational Regatta marine event, occurring from 6 a.m. through 5 p.m. each day from March 16, 2018 through March 18, 2018, will be a safety concern for all navigable waters on the Clinch River, extending the entire width of the river, from mile marker (MM) 49.5 to MM 52.0. The purpose of this rule is to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a special local regulation from 6 a.m. through 5 p.m. each day from March 16, 2018 through March 18, 2018 for all navigable waters of the Clinch River, extending the entire width of the river, from MM 49.5 to MM 52.0. Enforcement of the regulated area will occur from 6 a.m. to 5 p.m. daily. The duration of the special local regulation is intended to ensure the safety of life and vessels on these navigable waters before, during, and after the scheduled event. No vessel or person will be permitted to enter the special local regulated area without obtaining permission from 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 Ohio Valley. They may be contacted on VHF–FM Channel 16 or by telephone at 1–800–253–7465. Persons and vessels permitted to enter this regulated area must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the special local regulation. The Coast Guard will issue written Local Notice to Mariners and Broadcast Notice to Mariners via VHF–FM marine channel 16 about the temporary 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 V. A. above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security 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 the establishment of a special local regulation lasting eleven hours on three days extending a distance of less than three miles that will prohibit entry on all navigable waters of the Clinch River from MM 49.5 to MM 52.0. It is categorically excluded from further review under paragraph L63(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 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 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—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add § 100.35T08–0096 to read as follows:

§ 100.35T08–0096 Special Local Regulation; Clinch River, Oak Ridge, TN.

(a) *Location.* The following area is a temporary special local regulation: All navigable waters of the Clinch River, extending the entire width of the river, between mile marker (MM) 49.5 and MM 52.0, Oak Ridge, TN.

(b) *Effective period.* This section is effective from 6 a.m. on March 16, 2018 through 5 p.m. on March 18, 2018.

(c) *Special local regulations.*

(1) Entry into this area is prohibited unless authorized by the Captain of the Port Sector Ohio Valley (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 Ohio Valley.

(2) Persons or vessels seeking to enter the regulated area must request permission from the COTP or a designated representative on VHF–FM channel 16 or by telephone at 1–800–253–7465.

(3) Persons and vessels permitted to enter this regulated area 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 local notice to mariners and Broadcast Notices to Mariners of the enforcement period for the regulated area as well as any changes in the planned schedule.

Dated: March 12, 2018.

M.B. Zamperini,

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

[FR Doc. 2018–05461 Filed 3–16–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0146]

Safety Zone; Pittsburgh Pirates Fireworks, Allegheny River, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones for the Pittsburgh Pirates Fireworks on the Allegheny River, extending the entire width of the river, from mile 0.2 to 0.8 in Pittsburgh, PA. The safety zones are necessary to protect vessels transiting the area and event spectators from the hazards associated with the Pittsburgh Pirates barge-based firework displays following certain home games throughout the season. During the enforcement period, entry into, transiting, or anchoring in the safety zones is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 1, Line 1 will be enforced from 8 p.m. through 11:59 p.m. each day on April 7, April 28, May 18, June 22, July 28, August 18, and September 21, 2018, unless the firework displays are postponed because of adverse weather, in which case, this rule will be enforced within 48 hours of each scheduled date.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of

enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones for the annual Pittsburgh Pirates Fireworks listed in 33 CFR 165.801, Table 1, line 1 from 8 p.m. through 11:59 p.m. each day on April 7, April 28, May 18, June 22, July 28, August 18, and September 21, 2018. Should inclement weather require rescheduling, the safety zone will be effective following games on a rain date to occur within 48 hours of the scheduled date. Entry into the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative. Persons or vessels desiring to enter into or pass through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via Local Notice to Mariners and updates via Marine Information Broadcasts.

Dated: March 8, 2018.

L. McClain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2018–05465 Filed 3–16–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0589; FRL–9975–16—Region 1]

Air Plan Approval; Vermont; Nonattainment New Source Review and Prevention of Significant Deterioration Permit Program Revisions; Infrastructure Requirements for National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving several different revisions to the State Implementation Plan (SIP) submitted to the EPA by the Vermont Department of Environmental Conservation (VT DEC). On May 23, 2017, Vermont submitted revisions to the EPA satisfying the VT DEC's earlier commitment to adopt and submit revisions that meet certain requirements of the Federal Prevention of Significant Deterioration (PSD) air permit program. Vermont's submission also included revisions relating to the federal nonattainment new source review (NNSR) permit program. This action approves those revisions and also fully approves certain elements of Vermont's infrastructure SIPs (ISIPs), which were conditionally approved by the EPA on June 27, 2017. Additionally, the EPA is approving several other minor regulatory changes to the SIP submitted by VT DEC on May 23, 2017. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on April 18, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0589. 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: Eric Wortman, Air Permits, Toxics, and Indoor Programs Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 (Mail Code OEP05–2), Boston, MA 02109–3912, phone number (617) 918–1624, fax number (617) 918–0624, email *wortman.eric@epa.gov*.

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

Table of Contents

I. Background and Purpose
II. Final Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. Background and Purpose

On December 18, 2017, the EPA published a Notice of Proposed Rulemaking (NPRM) for the State of Vermont. *See* 82 FR 59997. The NPRM proposed approval of several different revisions to the SIP submitted by the VT DEC. The formal SIP revision was submitted by Vermont on May 23, 2017.

As discussed in the NPRM, the VT DEC revised the Vermont Air Pollution Control Regulations (APCR) on December 15, 2016 to address the two provisions identified in the EPA's June 27, 2017 conditional approval, which are required under the Federal PSD permit program regulations and were not included in the State's ISIPs submittal. *See* 82 FR 29005, June 27, 2017. Specifically, the definition of ''significant'' in APCR § 5–101(80) was revised to define the significant emissions rate increase for ozone as 40 tons or greater of either VOCs or NO_X as ozone precursors. In addition, the VT DEC revised APCR sections 5–502(4)(c) and 5–502(5)(a) and (b) to require that PSD increment reviews and the determination of remaining PSD increment be conducted or determined in accordance with the applicable regulations at 40 CFR 51.166.

The EPA's NPRM also proposed approval into the Vermont SIP of the requirements in Vermont's NNSR and PSD permit program at APCR sections 5–501(9) and 5–502(9). The provision at section 5–501(9) clarifies that no action under section 5–501 relieves any person from complying with any other requirements of local, State, or Federal law. APCR section 5–502(9) requires an alternative site analysis to be conducted when: (1) A source or modification that is major is proposed to be constructed in a non-attainment area; or (2) a source or modification is major for ozone and/or precursors to ozone.

Additionally, the NPRM proposed to incorporate into the SIP revisions to the regulations relating to particulate matter at APCR sections 5–231(4) and (5). APCR section 5–231(4) was revised to prohibit a process operation to operate without taking reasonable precautions to prevent particulate matter from becoming airborne. APCR section 5–231(5) was revised to update and replace the term ''Asphalt Concrete

Plant'' with the more commonly used term ''Hot Mix Asphalt Plant.''

The EPA also proposed to approve minor revisions to the work practice standards for wood furniture manufacturers and the regulations for sampling and testing of sources. The wood furniture manufacturing regulation at APCR section 5–253.16(d)(8) was amended to limit the use of conventional air spray guns to apply finishing materials only when all emissions from the finishing application station are routed to a functioning control device. The NPRM also proposed to approve changes to the stack testing requirements at APCR section 5–404. This revision adds 40 CFR part 51, Appendix M, as a testing option and requires that all other methods be approved by the Air Pollution Control Officer and the EPA, as opposed to just the Air Pollution Control Officer. The rationale for the EPA's proposed action is explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

The EPA is approving the changes in the May 23, 2017 submittal as a revision to the Vermont SIP. The EPA has determined the revisions in the May 23, 2017 are consistent with the CAA and appropriate for inclusion into the Vermont SIP. We are also converting the June 27, 2017 conditional approval of Vermont's ISIPs for Federal PSD requirements to a full approval.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Vermont statutes described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov*.

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 8, 2018.

Alexandra Dapolito Dunn,

Regional Administrator, EPA Region 1.

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 UU—Vermont

■ 2. In § 52.2370:

■ a. The table in paragraph (c) is amended by revising the entries for ''Section 5–101'', ''Section 5–231'', ''Section 5–253.16'', ''Section 5–404'', ''Section 5–501'', and ''Section 5–502''; and

■ b. The table in paragraph (e) is amended by revising the entries ''Infrastructure SIP for 1997 $PM_{2.5}$ NAAQS'', ''Infrastructure SIP for 1997 ozone NAAQS'', ''Infrastructure SIP for 2006 $PM_{2.5}$ NAAQS'', ''Infrastructure SIP for the 2008 Lead NAAQS'',

''Infrastructure SIP for 2008 ozone NAAQS'', ''Infrastructure SIP for the 2010 NO_2 NAAQS'', and ''Infrastructure SIP for the 2010 SO_2 NAAQS''.

The revisions read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) EPA approved regulations.

EPA-APPROVED VERMONT REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
*	*	*	*	*
Section 5–101	Definitions	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions made to definition for ''significant'' to include emissions of ozone precursors.
*	*	*	*	*
Section 5–231	Prohibition of particular matter.	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions to prohibit a process and other specified operations without taking reasonable precautions to prevent particulate matter from becoming airborne, and updating terminology for consistency with industry practice.
*	*	*	*	*
Section 5–253.16	Wood Furniture Manufacturing.	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions for consistency with underlying federal regulations.
*	*	*	*	*
Section 5–404	Methods for sampling and testing of sources.	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions to provide required methods that must be followed when conducting a stack test.
*	*	*	*	*
Section 5–501	Review of construction or modification of air contaminant sources.	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions to Section 5–501(9) to clarify applicability of local, state, or federal law.
Section 5–502	Major stationary sources and major modifications.	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Approving revisions to Section 5–502(4)(c) and 5–502(5)(a) and (b) to provide process for PSD increment review demonstration and to determine increment; Approving revisions to Section 5–502(9) to provide requirement for alternative site analysis if: A source is major for ozone and/or major for precursors to ozone; or (2) a source or modification that is major is proposed to be constructed in a nonattainment area.
*	*	*	*	*

* * * * *

(e) Nonregulatory.

VERMONT NON-REGULATORY

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
*	*	*	*	*
Infrastructure SIP for 1997 $PM_{2.5}$ NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for 1997 ozone NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for 2006 $PM_{2.5}$ NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for the 2008 Lead NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for 2008 ozone NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for the 2010 NO_2 NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
Infrastructure SIP for the 2010 SO_2 NAAQS.	Statewide	December 15, 2016	March 19, 2018 [Insert **Federal Register** citation].	Certain aspects relating to PSD which were conditionally approved on June 27, 2017 are now fully approved.
*	*	*	*	*

[FR Doc. 2018–05317 Filed 3–16–18; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0555; FRL–9975–64–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Removal of Source-Specific Requirements for Permanently Shutdown Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of West Virginia. This revision pertains to the removal of source-specific SIP requirements for the following five facilities in West Virginia that have permanently shutdown: Mountaineer Carbon Company; Standard Lafarge; Follansbee Steel Corporation; International Mill Service, Inc.; and Columbian Chemicals Company. These sources have permanently ceased operation; therefore, SIP requirements for these sources are obsolete and no longer necessary for attaining and maintaining the national ambient air quality standards (NAAQS). EPA is approving this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 18, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2017–0555. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *http://www.regulations.gov,* or please contact the person identified in the ''For Further Information Contact'' section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814–2166, or by email at *shandruk.irene@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The West Virginia SIP at 40 Code of Federal Regulations (CFR) part 52, subpart XX, section 52.2520(d) contains source-specific requirements, which were incorporated into the West Virginia SIP over the course of many years to allow the State to demonstrate attainment with various NAAQS. Subsequently, several of these sources have permanently ceased operation rendering source-specific requirements for these facilities obsolete.

SIP revisions pertaining to the removal of obsolete SIP requirements for sources that have permanently shutdown are considered administrative, non-substantive changes. If a source has permanently shutdown, the emissions are permanently reduced to zero, so removing source-specific SIP requirements for that source will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement. *See* CAA section 110(l).

II. Summary of SIP Revision and EPA Analysis

On August 25, 2017, West Virginia submitted a SIP revision requesting that the consent orders for the sources listed in Table 1 be removed from the West Virginia SIP located at 40 CFR part 52, subpart XX, section 52.2520(d). On December 5, 2017, EPA published a notice of proposed rulemaking (NPR) proposing to approve West Virginia's August 25, 2017 (82 FR 57418) SIP revision.

TABLE 1—SOURCE-SPECIFIC REQUIREMENTS PROPOSED FOR REMOVAL FROM THE WEST VIRGINIA SIP

Source name	Order	State effective date	EPA approval date/ **Federal Register** (FR) citation
Mountaineer Carbon Company	Consent Order	7/2/82	9/1/82, 47 FR 38532.
Standard Lafarge	Consent Order CO–SIP–91–30	11/14/91	7/25/94, 59 FR 37696.
Follansbee Steel Corporation	Consent Order CO–SIP–91–31	11/14/91	7/25/94, 59 FR 37696.
International Mill Service, Inc.	Consent Order CO–SIP–91–33	11/14/91	7/25/94, 59 FR 37696.
Columbian Chemicals Company	Consent Order CO–SIP–2000–3	1/31/00	8/2/00, 65 FR 47339

III. Public Comments and EPA's Responses

EPA received six public comments on the NPR to approve West Virginia's SIP revision.

Comment 1: The commenter expressed concern over whether the facilities' emissions would be regulated through monitoring and guidelines if they were to re-open.

Response 1: CAA section 110(a)(2)(c) and Title I, Parts C and D, as well as CAA sections 172, 173, and 161 require states to implement permit programs consistent with the requirements of the CAA which regulate construction and modification of stationary sources to assure the NAAQS are achieved. These include nonattainment new source review (NSR) and prevention of significant deterioration (PSD) permit programs. West Virginia has federally enforceable NSR and PSD permit programs incorporated in the West Virginia SIP. *See* 45CSR19 (NSR program approved 80 FR 29973(May 26, 2015)), 45CSR14 (PSD program approved 81 FR 53009 (August 11, 2016)), and 45CSR13 (minor source NSR program approved 79 FR 42213 (July 21, 2014)). All of the facilities listed in the NPR were permanently shut down, but if any were to re-open, or if any new sources were to start operating in West Virginia in the same location, they would need to comply with the requirements of West Virginia's permit programs, as applicable including NSR, PSD or minor NSR. Specifically, West Virginia's rule 45CSR14, ''Permits for the Construction and Major Modification of Major Stationary Sources of Air Pollution for the Prevention of Significant Deterioration,'' was approved into the West Virginia SIP in 1984 and subsequently revised several times with the latest revision to the SIP in 2015 (81 FR 53009). West Virginia's rule 45CSR13, ''Permits for Construction, Modification, or Relocation of Stationary Sources of Air Pollutants, and Procedures for Registration and Evaluation,'' requiring

construction or modification permits for all regulated stationary emission sources was approved into the West Virginia SIP in 1972 and last updated in 2014 (79 FR 42213). West Virginia's rule 45CSR19, ''Requirements for Pre-Construction Review, Determination of Emission Offsets for Proposed New or Modified Stationary Sources of Air Pollutants and Bubble Concept for Intra-Source Pollutants,'' for permitting of major sources and modifications in designated nonattainment areas was approved into the West Virginia SIP in 1985 (50 FR 27247) with recent revisions to the rule included in the SIP in 2015 (80 FR 29973). These federally enforceable rules approved into the West Virginia SIP ensure that pollutant-emitting sources are regulated with appropriate and required emission limitations and monitoring requirements as necessary, and that their operation will not prevent West Virginia from attaining or maintaining the NAAQS.

Comment 2: The commenter expressed concern that wildfires are negatively impacting both public health and the environment, and that more should be done to prevent wildfires.

Response 2: This comment is irrelevant to this rulemaking. This rulemaking is concerned with removing source-specific requirements from the SIP for permanently shut down facilities in West Virginia. As the comment is neither supportive of, critical of, nor specific to this action, no further response is provided.

Comment 3: The commenter questioned why the United States is importing gas from Nigeria at Cove Point hurting the American middle class and the working poor.

Response 3: This comment is irrelevant to this rulemaking. This rulemaking is concerned with removing source-specific requirements from the SIP for permanently shut down facilities in West Virginia. As the comment is neither supportive of, critical of, nor specific to this action, no further response is provided.

Comment 4: The commenter expressed concern over unnecessary and burdensome regulations, and the regulatory process.

Response 4: As the comment is neither supportive of, critical of, nor specific to this action, no response is provided. This rulemaking is concerned with removing source-specific requirements from the SIP for permanently shut down facilities in West Virginia.

Comment 5: The commenter expresses concern over potentially harmful health effects from low frequency electro-magnetic fields and discusses how their use in automobiles amongst other things could be harmful to human health.

Response 5: This comment is irrelevant to this rulemaking. This rulemaking is concerned with removing source-specific requirements from the SIP for permanently shut down facilities in West Virginia. As the comment is neither supportive of, critical of, nor specific to this action, no further response is provided.

Comment 6: The commenter asserts that EPA relied on assumptions and false evidence to lead attacks on hydraulic fracturing, and utilized the film industry to create anti-fracking films, all to justify regulating the industry.

Response 6: This comment is irrelevant to this rulemaking. This rulemaking is concerned with removing source-specific requirements from the SIP for permanently shut down facilities in West Virginia. As the comment is neither supportive of, critical of, nor specific to this action, no further response is provided.

IV. Final Action

EPA has reviewed West Virginia's SIP revision seeking removal of obsolete source-specific SIP requirements from the West Virginia SIP. These five sources have permanently ceased operation, rendering source-specific SIP requirements for these sources obsolete. EPA has confirmed that all permits have been surrendered and are inactive. Therefore, EPA is approving the West Virginia August 25, 2017 SIP revision, which sought removal of source-specific revisions related to five now closed facilities, in accordance with section 110 of the CAA. As the five sources permanently shutdown, their emissions are permanently eliminated, so removing the source-specific SIP requirements for these sources will not interfere with attainment and maintenance of any NAAQS, reasonable further progress or any other applicable CAA requirement in accordance with CAA section 110(l).

V. Statutory and Executive Order Reviews

A. General Requirements

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

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

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

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 non-agency 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.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 18, 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 pertaining to removal of source-specific requirements from the West Virginia SIP 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 6, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

§ 52.2520 [Amended]

■ 2. In § 52.2520, the table in paragraph (d) is amended by removing the entries for ''Mountaineer Carbon Co,'' ''Standard Lafarge,'' ''Follansbee Steel Corp,'' ''International Mill Service, Inc,'' and ''Columbian Chemicals Company.''

[FR Doc. 2018–05404 Filed 3–16–18; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 4

[Docket No. USCG–2016–0748]

RIN 1625–AC33

Marine Casualty Reporting Property Damage Thresholds

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the monetary property damage threshold amounts for reporting a marine casualty and for reporting a type of marine casualty called a ''serious marine incident.'' The original regulations that set these dollar threshold amounts were written in the 1980s and have not been updated since that time. Because the monetary thresholds for reporting have not kept pace with inflation, vessel owners and operators have been required to report relatively minor casualties. Additionally, the original regulations require mandatory drug and alcohol testing following a serious marine incident. As a result, vessel owners and operators are conducting testing for casualties that are less significant than those intended to be captured by the original regulations. Updating the original regulations will reduce the burden on vessel owners and operators, and will also reduce the amount of Coast Guard resources expended to investigate these incidents.

DATES: This final rule is effective April 18, 2018.

FOR FURTHER INFORMATION CONTACT: For information about this document, call or email LCDR Baxter B. Smoak, CG–INV, Coast Guard; telephone 202–372–1223, email *Baxter.B.Smoak@uscg.mil.*

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I. Abbreviations

BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
COI Collection of Information
CPI–U Consumer Price Index for All Urban Consumers
DHS Department of Homeland Security
MISLE Marine Information for Safety and Law Enforcement
NPRM Notice of Proposed Rulemaking
OCMI Officer in Charge, Marine Inspection
OCS Outer Continental Shelf
OMB Office of Management and Budget
PVA Passenger Vessel Association
RA Regulatory analysis
SMI Serious marine incident
SNPRM Supplemental notice of proposed rulemaking.
U.S.C. United States Code
§ Section symbol

II. Background, Basis, and Purpose

Pursuant to 46 U.S.C. 6101, the Coast Guard is required to prescribe regulations on marine casualty reporting and the manner of reporting. Based on this authority, we developed regulations in part 4 of title 46 of the Code of Federal Regulations (CFR) that included, among other criteria, monetary property damage threshold amounts for reporting a ''serious marine incident'' [1] (SMI) and for reporting a marine casualty.[2] The original regulations setting these property damage threshold amounts were developed in the 1980s, and they have not been updated since that time. With this final rule, we update the dollar threshold amounts for property damage

[1] 46 CFR 4.03–2.

[2] 46 CFR 4.05–1.

in 46 CFR 4.03–2(a)(3) and 4.05–1(a)(7) to account for inflation.

As described in greater detail in the notice of proposed rulemaking (NPRM), there is Coast Guard and stakeholder consensus that the 1980s property damage monetary threshold amounts listed in 46 CFR 4.03–2 and 4.05–1 have not kept pace with inflation.[3] Over time, this has resulted in the reporting of a greater number of casualties involving relatively minor property damage. It was never our intent to require owners or operators to notify us of casualties involving relatively minor property damage. Consequently, we are amending the property damage monetary threshold amounts to eliminate the reporting of insignificant property damage incidents.

Additionally, because the regulations require mandatory drug and alcohol testing following an SMI, current regulations require chemical testing of crewmembers for casualties that reach a minimum threshold of $100,000 in property damage. Because of cost increases caused by inflation, however, casualties that result in property damage between $100,000 and $200,000 are no longer representative of a ''serious'' incident. The lack of inflation updates to our marine casualty regulations has resulted in an additional administrative and financial burden on vessel owners and operators, as well as on Coast Guard resources used to investigate these incidents.

III. Regulatory History

On January 23, 2017, the Coast Guard published an NPRM with request for comments. No public meeting was requested, and none was held.

IV. Discussion of Final Rule

This final rule changes the reportable marine casualty property damage threshold amount in 46 CFR 4.05–1(a)(7) from $25,000 to $75,000. In the NPRM, we proposed to make this threshold $72,000, but chose $75,000 for reasons explained in the next section of this preamble. This final rule also changes the SMI property damage threshold in 46 CFR 4.03–2(a)(3) from $100,000 to $200,000. This change is the same as that proposed in the NPRM.

With the dollar amount thresholds updated to account for inflation, we expect there will be a decrease in the number of commercial vessel casualties reported to the Coast Guard. The updates in this final rule will also likely decrease the number of casualties that fall within the definition of an SMI, and thereby reduce the number of chemical tests administered following an SMI that results in $100,000.01 to $200,000 worth of property damage. However, mandatory chemical testing will still be required if the property damage meets the updated dollar threshold amount (in excess of $200,000) established in this final rule. Our intent in setting a dollar amount threshold in our marine casualty reporting regulation and within the definition of ''serious marine incident'' was, and remains, to ensure that the Coast Guard is aware of those incidents that could be indicative of more serious problems that may be averted in the future with timely intervention.

We expect that this final rule will result in an estimated annual cost savings to industry of $40,809 due to a reduction in the hourly burden of reporting and recordkeeping for both marine casualties and SMIs, and an estimated annual cost savings of $4,751 for chemical testing for marine casualties designated as SMIs. This final rule will also result in cost savings to the Coast Guard by reducing the hourly burden costs to investigate marine casualties, as well as the costs associated with processing marine casualty forms. As a result, the maritime industry and Coast Guard resources will be able to focus their efforts on higher consequence incidents.

Finally, this final rule makes several nonsubstantive changes throughout 46 CFR part 4 to account for Office of Management and Budget (OMB)-approved updates to forms that the maritime industry uses to report on marine casualties and SMIs. The Coast Guard provides further detail of these non-substantive changes below in Part V.G, Discussion of Comments and Changes.

V. Discussion of Comments and Changes

We received 45 public comments. The comments were from individuals representing 25 private companies and 6 trade associations, and 1 anonymous source. Two of these private companies had two individuals submit comments on their behalf, and 11 individuals representing one of the other private companies submitted separate letters. Additionally, one of the trade associations submitted two identical letters from the same individual. We reviewed and took into consideration all 45 comments. The majority of commenters agreed with the NPRM that the current dollar thresholds for reporting marine casualties and SMIs are outdated and should be increased. Some commenters agreed with each of the increased dollar threshold amounts proposed in the NPRM. Other commenters recommended increasing the proposed dollar threshold amount for reporting a marine casualty; of this group, most also recommended increasing the proposed dollar threshold amount for reporting an SMI. Still others recommended including a means to periodically adjust or revise the dollar threshold amounts to make sure they continue to stay current. One commenter recommended that the Coast Guard include within the docket ''examples of the casualties which will no longer be reported'' as a result of the increase in the dollar threshold amount for property damage. Another commenter suggested that the proposal to increase the dollar threshold amounts for reporting casualties and SMIs be extended to the Outer Continental Shelf (OCS) regulations in 33 CFR part 146, so that the reporting threshold amounts in both CFR titles will be ''standardized.'' Finally, one commenter suggested that our method of calculating the inflationary adjustment using the Consumer Price Index for All Urban Consumers (CPI–U) yielded outdated figures, and that there may be other reference indices that would produce more accurate results.

We have grouped these comments into the following categories:

- Dollar Threshold Amounts for Reporting Marine Casualties;
- Dollar Threshold Amounts for Reporting SMIs;
- Periodic Adjustments of the Threshold Amounts for Reporting Marine Casualties and SMIs;
- Loss of Marine Casualty Data;
- Amending the Dollar Amount Thresholds for Outer Continental Shelf Casualty Reporting in Title 33 of the CFR; and
- Use of the CPI–U to Determine Reporting Threshold Amounts.

A detailed discussion of these comments and our responses follows.

A. Dollar Threshold Amounts for Reporting Marine Casualties

Four commenters agreed with the increased dollar threshold amounts exactly as proposed in the NPRM. Of the four commenters, three had additional comments unrelated to the specific dollar threshold amounts. Those comments are addressed in the following discussions and responses.

One commenter recommended increasing the proposed dollar threshold amount of $72,000 for a marine casualty to a ''more memorable figure of $75,000 or $100,000.''

Coast Guard Response: We agree with the commenters that $75,000 and $100,000 represent figures that are

[3] 82 FR 7755, page 7756.

easier to remember than $72,000. However, we do not agree with changing the property damage threshold to $100,000. As we explained in the NPRM, the Coast Guard, in arriving at the proposed threshold amount of $72,000, calculated the inflation adjustment factor using the CPI–U. Changing the threshold amount to $100,000 would not be consistent with our intent to update the reporting threshold based on the rate of inflation experienced since implementation of the original rule. Changing the dollar threshold to $75,000, however, is consistent with that intent and, as the commenter noted, is an easier dollar figure to remember. Additionally, based on our casualty data, we believe that the difference in reporting data between $72,000 and $75,000 will be negligible and, for the reasons explained in the Regulatory Analysis (RA) section of this final rule (Section VI), the affected population of this rule remains unchanged from the NPRM. In this final rule, therefore, we have changed the marine casualty reporting threshold for property damage to $75,000.

B. Dollar Threshold Amounts for Reporting SMIs

Thirty-six commenters recommended increasing the proposed dollar threshold amount for reporting an SMI to $400,000, citing suggestions from the Passenger Vessel Association (PVA). In support of its recommendation for the Coast Guard to change the dollar amount of an SMI from the proposed $200,000 to $400,000, the PVA explains that the 1:4 ratio between the existing dollar amount threshold for marine casualty reporting ($25,000) and the existing dollar amount threshold for a ''serious marine incident'' ($100,000) should be maintained under the final rule.

Coast Guard Response: We do not agree with the 1:4 ratio suggested by the PVA and their members. While the original thresholds did have a 1:4 ratio, this relationship was not by design, nor was it our intention to tie the threshold numbers together in this manner or to suggest that a 1:4 ratio is optimal and should be maintained. Changing the property damage threshold amount to $400,000 for an SMI, as recommended by the commenters and the PVA, would not be consistent with our intent to update the threshold amount based on the rate of inflation experienced since implementation of the original rule.

C. Periodic Adjustments of the Threshold Amounts for Reporting Marine Casualties and SMIs

Thirty-seven commenters recommended including in the final rule a provision for periodically adjusting both threshold amounts to account for inflation, so that the Coast Guard will not be required to initiate future rulemakings to update the threshold amounts. Of these, one commenter pointed out that the Coast Guard was ''using the same CPI–U numbers to calculate and revise the damage thresholds that they currently employ for their civil penalty adjustments.'' Therefore, the commenter suggested, we should include in the final rule a provision to ''revise [the dollar threshold amounts for both a marine casualty and an SMI] using the same rate increase schedule as those for civil penalty updates.''

Coast Guard Response: We do not plan to establish automatic, periodic inflation adjustments to these property damage threshold amounts because the cost increase due to annual inflation may be too insignificant to warrant an adjustment every year. Frequent adjustments could also lead to confusion in what is to be reported. Additionally, the maritime industry may also be burdened with updating training and operational materials. We recognize, however, that these dollar amount thresholds should be reviewed more frequently than in the past to account for annual inflation. To that end, we will incorporate a 5-year evaluation period in our internal Mission Management System audits to ensure that the Coast Guard reviews the appropriateness of these dollar threshold amounts on a regular, recurring basis.

D. Loss of Marine Casualty Data

One anonymous commenter did not express support for or opposition to the NPRM, but was concerned that an increase in the dollar threshold amounts would mean a loss of data for those casualties whose property damage amounts fall below the proposed thresholds. For those casualties, the commenter believed the Coast Guard would not have the necessary information to identify problems that may need attention. The commenter recommended that the Coast Guard ''provide supplemental information to the docket which provides examples of the casualties which will no longer be reported,'' and stated that this information should be available to the public ''because it was the data the Coast Guard used to determine that the current thresholds are not adequate and would clearly convey what type of data would no longer need to be reported.''

Coast Guard Response: We understand and appreciate the commenter's concerns. However, we are changing the reporting thresholds only as they relate to property damage. We feel that the various types of reportable casualties detailed in 46 CFR 4.05–1 ensure we are made aware of those incidents that could indicate more serious problems and that may be averted in the future with timely intervention. These include groundings, bridge allisions, loss of propulsion or steering, certain equipment failures, incidents resulting in significant harm to the environment, fire or flooding that adversely affects the vessel's seaworthiness or fitness for service, injuries beyond first aid, and loss of life—regardless of property damage cost. Nevertheless, we understand that, under this final rule, there will be casualties that involve property damage alone that will no longer be reported to the Coast Guard. An example of such a casualty would be if a vessel allides with a pier, and the resulting initial estimated property damage to the vessel and pier structure is any amount between $25,000.01 and $75,000. Assuming no pollution, deaths, injuries, or other reportable criteria is met, this casualty would no longer be a reportable marine casualty under this final rule. In reviewing historical data from the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, we are confident that the casualties reported that involve only property damage under $75,000 are relatively minor in nature when compared to all other reportable marine casualties. A specific example that epitomizes this occurred aboard a moored foreign containership. In this reportable marine casualty, a container being loaded by a longshoreman using a shore-side crane struck the forward mast of the vessel, resulting in over $66,000 in damage. Under this final rule, a relatively minor incident like this will no longer be reported to the Coast Guard.

E. Amending the Dollar Amount Thresholds for Outer Continental Shelf Casualty Reporting in Title 33 of the CFR

One commenter, speaking on behalf of the International Association of Drilling Contractors, recommended that the increased dollar threshold amount for reporting a marine casualty, as proposed in the NPRM, also be applied to OCS facilities under 33 CFR part 146. If the Coast Guard makes the proposed changes only in 46 CFR part 4, and not

also in 33 CFR part 146, the commenter stated that the Coast Guard would ''appear to be penalizing'' OCS facilities, which would continue to be required to report under the original dollar threshold amount of $25,000. The commenter referred to a ''second related rulemaking (USCG–2013–1057) in progress that proposes to broaden the regulatory requirements for reporting marine casualties on the U.S. OCS,'' and suggested that the Coast Guard review the marine casualty dollar threshold amounts in both 33 and 46 CFR ''with a view towards standardization.''

Coast Guard Response: The commenter is correct that, because this final rule is limited to vessels (see 46 CFR 4.03–1 and 4.05–1), it does not affect the reporting threshold for OCS facilities. Changing the $25,000 casualty damage threshold amount applicable to OCS facilities is not within the scope of the rule we proposed, and we think it is important to finalize the changes for vessels rather than delay them in order to propose changes for OCS facilities. However, we acknowledge the validity of the commenter's concern, and we will consider amending the threshold reporting amount applicable to OCS facilities in a future rulemaking.

F. Use of the CPI–U To Determine Reporting Threshold Amounts

One commenter who was generally supportive of the NPRM stated that the method we used to calculate inflationary adjustment by comparing the average CPI–U for the base years with the average CPI–U for 2015 yielded outdated information. The commenter pointed out that the U.S. Bureau of Labor Statistics (BLS) inflation calculator, available online at the BLS website, allows users to compare base year values to values for 2017. Therefore, the commenter contends, the threshold amount for reporting a marine casualty as proposed in the NPRM is ''already outdated by two years.'' The commenter recommended raising the threshold amounts for a marine casualty and an SMI to $100,000 and $400,000, respectively.

Coast Guard Response: As stated previously, we agree that since the NPRM was published, more recent CPI–U data is available. However, we disagree with using the CPI–U BLS calculator to update to 2017. When using the BLS calculator to update to 2017, the calculator updates to the last available month of 2017 data. The CPI–U could have an unusual increase or decrease in 1 month that is not representative of the overall trend in the CPI–U over the full year. We take an average of the 12 months of CPI–U data for the latest full year of data to better represent the overall trend in CPI–U. We disagree with using 2017 data because it would provide an incomplete year of data. The last full year of CPI–U data available at the time of analysis was 2016. We have updated this final rule in a way that encompasses the 2016 CPI–U data.

Thirty-six commenters, citing suggestions from the PVA, recommended increasing the threshold for reporting marine casualties to $100,000, stating that the proposed figure of $72,000 ''is already outdated because the (Coast Guard's) calculation used 2015 as the year inputted into the CPI–U BLS calculator.'' The PVA and many of these commenters also expressed the belief that the CPI–U may not be the right index to use and that the $100,000 threshold reflects real, but non-CPI cost, ''inflation'' because of overtime and seasonality of repairs.

Coast Guard Response: While we agree that more recent CPI–U data is available since the publication of the NPRM, we decline to use 2017 data when computing the inflation adjustment factor using the BLS CPI–U calculator because doing so would provide an incomplete year of data. The last full year of CPI–U data is 2016, and using 2016 data instead of 2015 data does not result in an inflation-adjusted amount larger than the $75,000 figure already discussed. Specifically, if we calculate the inflation adjustment by comparing the average CPI–U for the base year 1980 (82.408) with the average CPI–U for 2016 (240.007), we find a resultant inflation adjustment factor of 1.912.[4] This inflation adjustment factor represents how much inflation has occurred since 1980. We multiply this inflation adjustment factor of 1.912 by the current threshold of $25,000 to calculate the raw inflation increment of $47,800. We then add this raw inflation to the original penalty of $25,000, which results in a threshold of $72,800. When rounding to the nearest thousand, this results in a revised threshold of $73,000. Accordingly, for the reasons mentioned above and in response to public comment, we are rounding to the nearest $5,000 to attain a more memorable dollar amount of $75,000.

The PVA states in its comment that it was not able to identify a single index that best fits the maritime industry. We agree that there is not a source that best fits the maritime industry. Because of this, we use the CPI–U to adjust the monetary property thresholds. The CPI is the most widely used and accepted index produced by the BLS to measure the average change over time in prices paid by urban consumers for a market basket of goods and services. Among other uses, the CPI serves as an economic indicator of the effectiveness of government economic policy, as a means of adjusting income payments, such as Social Security and military benefits, and automatic wage increases in the private sector, and as a means of adjusting Federal income tax brackets.[5] The specific CPI the Coast Guard uses is the unadjusted All Items CPI–U. The CPI–U is the ''broadest and most comprehensive CPI'' and, using unadjusted data, is more appropriate for this purpose because seasonally adjusted CPI data is subject to revision for up to 5 years after their original release, making such data difficult to use for adjustment purposes.[6] The CPI–U represents about 89 percent of the total U.S. population and is based on the expenditures of all families in urban areas,[7] which includes almost all residents of urban or metropolitan areas, such as professionals, the self-employed, the poor, the unemployed, and retired persons, as well as urban wage earners and clerical workers.

G. Nonsubstantive Changes To Reflect Updated CG–2692, Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty

Finally, after publication of the NPRM, we realized that we failed to include within the NPRM's proposed changes updates to the CG–2692 forms that OMB approved on September 29, 2016. OMB's approval was preceded by two **Federal Register** notices in which the Coast Guard sought public comment to these changes.[8] The changes to Form CG–2692 involved revising its title and moving certain sections to two new addendum forms. In this final rule, therefore, we are making nonsubstantive changes throughout 46 CFR part 4 to reflect the recently approved updates to the CG–2692 forms.[9] Because the changes to the CG–2692 forms are non-substantive, and a separate opportunity to comment on the forms was provided through the OMB approval process that is now complete, the Coast Guard finds

[4] CPI Detailed Report, Data for December 2016, Table 24. *http://www.bls.gov/cpi/cpid1512.pdf.*

[5] BLS, Chapter 17: The Consumer Price Index, page 5, *https://www.bls.gov/opub/hom/pdf/homch17.pdf.*

[6] BLS, Consumer Price Index Frequently Asked Questions, *https://www.bls.gov/cpi/questions-and-answers.htm#Question_13.*

[7] BLS, *How To Use the Consumer Price Index for Escalation, https://www.bls.gov/cpi/factsheets/escalation.htm.*

[8] 80 FR 64430 and 81 FR 5774.

[9] This final rule makes nonsubstantive changes to sections 4.05–10, 4.05–12, 4.06–3, 4.06–5, 4.06–30, and 4.06–60.

that good cause exists under 5 U.S.C. 553(b)(B) to bypass prior notice and comment on the nonsubstantive changes to 46 CFR part 4 in this final rule.

VI. Regulatory Analyses

We developed this final rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. OMB considers this rule to be an Executive Order 13771 deregulatory action. *See* OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). An RA follows.

In the NPRM, we proposed to revise the dollar threshold amount for reporting a marine casualty from $25,000 to $72,000. After considering public comments, we decided to increase the dollar threshold amount to $75,000. This RA incorporates the new threshold amount. We reviewed the incident investigation data from the Coast Guard's MISLE database used to estimate the affected population, and found from 2012 through 2014, there were a total of four marine casualty reports where the only outcome was property damage of $72,000.01 through $75,000. After accounting for rounding, these four additional marine casualty reports over the three year period were not substantial enough to change the approximately 5.3 percent of the 5,967 (or 316) fewer marine casualty reports we expect will be required per year after implementation of this final rule. Therefore, the affected population of this final rule remains unchanged from that of the NPRM.

We also updated the wage rates using BLS 2016 data. Table 1 summarizes the changes from the NPRM to this final rule, and the resultant impact on the RA.

TABLE 1—SUMMARY OF CHANGES FROM NPRM TO FINAL RULE

Element of the analysis	NPRM	Final rule	Resulting impact on RA
Replace reportable marine casualty threshold.	Replaced $25,000 with $72,000 ...	Replaced $25,000 with $75,000 ...	No impact.
Water transportation worker wage rate.	$47.60, using May 2015 and 2016 1st quarter BLS data.	$50.84, using May 2016 and 2016 4th quarter BLS data.	Increased industry costs and resulting industry benefits.

This RA provides an evaluation of the economic impacts associated with this final rule. Under this final rule, the Coast Guard is updating the reportable marine casualty dollar threshold in § 4.05–1(a)(7) of 46 CFR from $25,000 to $75,000, and the reportable SMI dollar threshold in § 4.03–2(a)(3) of 46 CFR from $100,000 to $200,000, to account for inflation, as discussed in Section IV of this final rule. Table 2 provides a summary of the affected population, costs, and benefits after implementation of this final rule.

TABLE 2—SUMMARY OF THE IMPACTS OF THE FINAL RULE

Category	Summary
Applicability	Replace the reportable marine casualty dollar threshold of $25,000 with $75,000. Replace the SMI dollar threshold of $100,000 with $200,000.
Affected Population	Owners, agents, masters, operators, or persons in charge involved in a marine casualty and crewmembers who are required to undergo chemical testing. Annual average of 316 vessel owners, operators, or their representatives reporting a marine casualty, 21 marine employers reporting an SMI and submitting chemical testing results to the Coast Guard, and an average of 32 vessel crewmembers will no longer be required to complete chemical testing.
Costs	No quantitative costs.
Benefits (Cost Savings)	$45,560 annualized and $319,994 10-year present value monetized industry benefits (cost savings) (7% discount rate). $637,688 annualized and $4,478,854 10-year present value monetized government benefits (cost savings) (7% discount rate). Total of industry and government benefits: $683,248 annualized and $4,798,848 10-year present value monetized combined benefits (cost savings) (7% discount rate).

Affected Population

This final rule affects the owners, agents, masters, operators, or persons in charge of a commercial vessel who, pursuant to 46 CFR 4.05–1, are required to notify the Coast Guard whenever a vessel is involved in a marine casualty and whenever crewmembers, pursuant to 46 CFR 4.06–3, are required to complete chemical testing following an SMI. Specifically, the regulations in this final rule affect those individuals who would have completed the necessary forms (CG–2692 series) to report a marine casualty where the only outcome

was property damage of $25,000.01 through $75,000, or an SMI with property damage of $100,000.01 through $200,000 (CG–2692 series, supplemented with an appended SMI written report (CG–2692B)).[10]

We used incident investigation data from the Coast Guard's MISLE database from 2012 through 2014[11] to estimate the average number of vessel crewmembers affected by this final rule. From 2012 through 2014, we found there was an average of 5,967 reports of a marine casualty per year, with one individual per vessel, who we assume to be a vessel crewmember, completing each report. An average of 271, or 4.5 percent of the annual 5,967 marine casualty reports, involved an SMI.

Of the 5,967 marine casualty reports, 5.3 percent were for a reportable marine casualty where the only outcome was property damage of $25,000.01 through $75,000. Therefore, we expect that an average of 316 fewer reports of marine casualties will be required per year (5,967 reports × 5.3 percent, rounded). Vessel owners and operators benefit from a reduction in the time burden associated with a crewmember no longer having to prepare and submit the required marine casualty reporting paperwork.

Of the 271 casualty reports that involved an SMI, 7.9 percent were cases in which the sole outcome of the SMI was property damage of $100,000.01 through $200,000. Based on that annual average, the revisions in this final rule will result in a reduction of 21 SMI written reports (CG–2692B) per year due to the change to the monetary threshold amount for an SMI involving property damage (271 reports × 7.9 percent, rounded). Because property damage of $100,000.01 through $200,000 exceeds the threshold for a reportable marine casualty, the forms for a marine casualty report (CG–2692 series) will still need to be completed under this final rule. However, marine employers will no longer be required to complete the additional paperwork required for an SMI written report (CG–2692B). Consequently, marine employers benefit from a reduction in the time burden associated with an SMI written report (CG–2692B), as well as cost savings associated with chemical testing.

Benefit or Cost Savings to Industry

The benefit or cost savings to industry is the difference between the current baseline cost to industry and the cost to industry after implementation of this final rule.

Current Reporting Cost to Industry for CG–2692 and CG–2692B

To estimate the benefit to industry, we first estimate the current cost to industry. The cost to industry includes costs for reporting and recordkeeping for a reportable marine casualty and the costs for chemical testing for marine casualties designated as SMIs. The reporting and recordkeeping costs for marine casualties include the time to complete the forms (CG–2692 series) for a marine casualty, the time for 10 percent of the forms to be internally reviewed before submission, and the time to complete the additional SMI written report (CG–2692B) pursuant to 46 CFR 4.06–60(a) when a marine casualty is designated as an SMI. The time estimates and wage rates for reporting and recordkeeping are taken from the existing Collection of Information (COI), entitled ''Marine Casualty Information & Periodic Chemical Drug and Alcohol Testing of Commercial Vessel Personnel,'' which has OMB Control Number 1625–0001.[12] We use the same time estimates and wage rates in this analysis to maintain consistency and to capture the changes resulting from this final rule.

An average of 5,967 marine casualty reports are submitted annually by vessel owners or operators. For each reportable marine casualty, we estimated in the existing COI that it takes 1 hour for a vessel crewmember to complete the necessary forms (CG–2692 series). We estimated in the existing COI that the position of vessel crewmember is analogous to a government employee at the grade level of a GS–03. The fully loaded wage rate for a GS–03 is $26 per hour, according to Commandant Instruction 7310.1P, ''Reimbursable Standard Rates.''[13] We use this version to maintain consistency with the existing COI 1625–0001. The annual baseline cost to complete the current 5,967 CG–2692 series forms is $155,142 (5,967 marine casualty reports × $26).

We estimate that it takes, on average, 1 hour to complete the CG–2692 series of forms. However, we received public comments in 2011 on the existing COI number 1625–0001 that stated that completing Form CG–2692 takes more than 1 hour, and one commenter stated that it can take up to 8 to 12 hours to complete the form.[14] The reason for this difference is that some entities choose to have the forms reviewed by shoreside personnel, such as an attorney, prior to submission to the Coast Guard. We adjusted our burden estimate to account for this additional layer of review. To account for this additional time, 10 percent of the forms submitted have 10 hours of additional burden. The additional time reflects internal review by individuals employed by the vessel owner or operator in addition to the vessel crewmember who completes the form. The additional reviewers may be shoreside representatives, port engineers, and attorneys, among others. We estimate that the wage rate for this added review is done by personnel analogous to a government employee at the grade level of a GS–14. The fully loaded wage rate for a GS–14 is $101 per hour, per Commandant Instruction 7310.1P. The total annual cost of this additional time is $602,970 (597 marine casualty reports × 10 additional burden hours × $101).

When a marine casualty is designated as an SMI, the marine employer must also complete a ''Report of Mandatory Chemical Testing Following A Serious Marine Incident Involving Vessels in Commercial Service'' (Form CG–2692B). (*See* 46 CFR 4.06–60.) We estimate that it takes 0.5 hours for a marine employer analogous to a government employee at the grade level of a GS–03 to complete this form. The annual cost to complete CG–2692B is $3,523 (271 SMI reports × 0.5 hours × $26 per hour wage rate).

Table 3 shows a summary of the current industry costs for reporting and recordkeeping.

[10] ''Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident.'' See, 46 CFR 4.05–10.

[11] This 3-year time period was used to be consistent with the existing Collection of Information, entitled ''Report of Marine Casualty & Chemical Testing of Commercial Vessel Personnel,'' which has OMB Control Number 1625–0001. Furthermore, as it often takes years to close the cases, 2014 is the most recent complete year of closed cases.

[12] Existing Collection of Information, ''Marine Casualty Information & Periodic Chemical Drug and Alcohol Testing of Commercial Vessel Personnel'', OMB Control Number 1625–0001, Docket Number USCG–2015–0910, can be found at *https://www.federalregister.gov/documents/2015/10/23/2015-27019/information-collection-request-to-office-of-management-and-budget-omb-control-number-1625-0001.*

[13] Out of Government Rate for GS–03. Hourly Rates for Personnel ($), Enclosure (2) to Commandant Instruction 7310.1P.

[14] Docket ID: USCG–2011–0710. Comments can be found at *https://www.regulations.gov/docket?D=USCG-2011-0710.*

TABLE 3—CURRENT ANNUAL INDUSTRY COSTS FOR REPORTING AND RECORDKEEPING

Requirement	Crewmembers/ responses	Burden hours per response	Annual hour burden	Wage rate	Annual cost burden
Written report of marine casualty	5,967	1.0	5,967	$26	$155,142
Additional Burden for 10% of Respondents	597	10.0	5,970	101	602,970
SMI written report	271	0.5	136	26	3,523
Totals			12,073		761,635

As mentioned earlier in this final rule, when a marine casualty is designated as an SMI, the crewmembers involved are required to take a chemical test pursuant to 46 CFR 4.06–3. The marine employer incurs costs for the actual costs of the chemical test and the time it takes for a crewmember to take the chemical test. The actual cost of the chemical test includes the costs of the chemical test collection kits, collector fees, Coast Guard alcohol-testing swabs, and overnight mailing. These costs can vary, but on average, the actual chemical test costs approximately $100 per test.[15] The number of vessel crewmembers required to take a chemical test can vary depending on the circumstances of the SMI. We analyzed the casualty reports that involved an SMI from MISLE data and found an average of 1.5 crewmembers per SMI were required to take a chemical test. We used an estimate of 1.5 crewmembers to estimate the costs of chemical testing to account for the variation in crewmembers involved in SMIs. With an average of 271 SMIs per year, the current annual cost for the actual chemical tests is $40,650 (271 SMIs × average of 1.5 crewmembers × $100 per test).

In addition to the cost of the chemical tests, there is a cost associated with the time it takes a vessel crewmember to complete the chemical test. We estimate that it takes 1 hour for a crewmember to complete the chemical test.[16] We obtained the wage rate of the crewmember from BLS, using Occupational Series 53–5000, Water Transportation Workers (May 2016). The BLS reports that the mean hourly wage rate for a water transportation worker is $33.45.[17] To account for employee benefits, we use a load factor of 1.52, which we calculated from 2016 4th quarter BLS data.[18] The loaded wage for a crewmember is estimated at $50.84 ($33.45 wage rate × 1.52 load factor). The cost of the time for a crewmember to take the chemical test is $20,666 (271 SMIs × average of 1.5 crewmembers × 1 hour burden × $50.84 wage rate). Therefore, the current annual cost to industry for chemical testing is $61,316 (see table 4). Adding the costs for chemical testing of $61,316 to the cost for reporting and recordkeeping of $761,635 (see table 3), brings the current total annual cost to industry to $822,951.

TABLE 4—CURRENT ANNUAL INDUSTRY COSTS FOR CHEMICAL TESTING

SMIs per year	Average crewmembers tested per SMI	Cost of testing procedures	Hours to take test	Wage rate	Total cost of testing procedures
271	1.5	$100	1	$50.84	$61,316

Total Reporting Costs to Industry After Implementation of the Final Rule

Increasing the dollar threshold amount for a reportable marine casualty involving property damage, as well as the dollar threshold amount for property damage within the definition of a ''serious marine incident,'' reduces the number of marine casualty responses by 5.3 percent, and the number of SMIs by 7.9 percent, annually. The burden hours per response remain the same, but we estimate that the total number of responses decreases to 5,651 for marine casualties and 250 for SMIs, resulting in 316 fewer reported marine casualties and 21 fewer SMIs. The following sections replicate the calculation of marine casualty reporting and chemical testing, but reflect the reduced number of reports and testing under the revised thresholds.

For each reportable marine casualty, we estimate that it takes 1 hour for a vessel crewmember to complete all parts of the necessary forms at a wage rate of $26. We estimate that the cost to complete the reduced number of marine casualty forms is $146,926 (5,651 marine casualty reports × $26).

In addition to the time needed to complete the marine casualty forms, some of the forms require additional processing time. The additional processing time reflects internal review by individuals employed by the vessel owner or operator, in addition to the time needed by the vessel crewmember who completes the form. The additional reviewers may be shoreside representatives, port engineers, or attorneys, among others. To account for

[15] Most marine employers use a consortium that simplifies and reduces the costs per test and also assists in managing a company's drug-testing program. There are variables associated with the cost of testing, as costs can vary depending on the number of personnel included in a plan and the type of testing plan adopted by a particular company. Based on discussions with industry and Coast Guard medical testing, contract data that are not publically available, we estimated testing costs of $79 and $114. We are, therefore, using an average cost of $100 for this analysis [($79 + $114)/2, rounded].

[16] Hourly estimate is from Coast Guard subject matter experts, and takes into account that these are not planned tests, but instead are emergent tests—required as a result of accidents—that must be taken no later than 32 hours after the incident.

[17] Mean wage, *https://www.bls.gov/oes/2016/may/naics3_483000.htm.* Because the crewmembers taking the chemical testing could be anyone from a junior deck officer up to a Master/Captain/Chief Engineer, we use the broader Water Transportation Worker (53–5000).

[18] Employer Costs for Employee Compensation provides information on the employer compensation and can be found in Table 9 at *https://www.bls.gov/news.release/archives/ecec_03172017.pdf. http://data.bls.gov/data/.* The loaded wage factor is equal to the total compensation of $28.15 divided by the wages and salary of $18.53. Values for the total compensation, wages, and salary are for all private industry workers in the transportation and material moving occupations, 2016 4th quarter.

this time, 10 percent [19] of the forms submitted (565 forms) have 10 hours of additional burden, and the wage rate for this added review will be done by personnel analogous to a government employee at the grade level of a GS–14. We estimate that the total cost of this additional time after the implementation of this final rule is $570,650 (565 marine casualty reports × 10 additional burden hours × $101).

As mentioned earlier in this final rule, when a marine casualty is designated as an SMI, the marine employer must complete an SMI written report (CG–2692B). We estimate that it takes 0.5 hours for a marine employer analogous to a government employee at a grade level of a GS–03 to complete this form.[20] We estimate that the cost to complete the additional forms for an SMI after implementation of this final rule is $3,250 (250 SMI reports × 0.5 hours × $26 per hour wage rate).

Table 5 shows a summary of the industry costs after implementation of this final rule.

TABLE 5—ANNUAL INDUSTRY COSTS FOR REPORTING AND RECORDKEEPING WITH REVISED REPORTING THRESHOLDS

Requirement	Crewmembers/ responses	Burden hours per response	Annual hour burden	Wage rate	Annual cost burden
Written report of marine casualty	5,651	1.0	5,651	$26	$146,926
Additional Burden for 10% of Respondents	565	10.0	5,650	101	570,650
SMI written report	250	0.5	125	26	3,250
Totals			11,426		720,826

The marine employer incurs the actual costs of the chemical test and the wage burden it takes for a crewmember to complete the chemical test. On average, each chemical test costs approximately $100. We use an estimate of 1.5 crewmembers to estimate the costs of chemical testing to account for the variation in crewmembers involved in SMIs. With an average of 250 SMIs per year, the annual cost after implementation of this final rule for the actual chemical tests is $37,500 (250 SMIs × average of 1.5 crewmembers × $100 per test).

In addition to the cost of the chemical tests, there is a cost associated with the time it takes a vessel crewmember to complete the chemical test. We estimate that it takes 1 hour for a crewmember to complete the chemical test at a loaded wage rate of $50.84 per hour. We estimate that the cost of the time for a crewmember to take the chemical test under this final rule is $19,065 (250 SMIs × average of 1.5 crewmembers × 1 hour burden × $50.84 wage rate). Therefore, the annual cost to industry for chemical testing after implementation of this final rule is $56,565 (see table 6). Adding the costs for chemical testing of $56,565 to the cost for reporting and recordkeeping of $720,826 (see table 5) brings the estimated total annual cost to industry to $777,391.

TABLE 6—ANNUAL INDUSTRY COSTS FOR CHEMICAL TESTING AFTER IMPLEMENTATION OF THE FINAL RULE

SMIs per year	Average crewmembers tested per SMI	Cost of testing procedures	Hours to take test	Wage rate	Total cost of testing procedures
250	1.5	$100	1	$50.84	$56,565

The annual burden of reporting marine casualties and SMIs under the current dollar amount thresholds is $822,951. The annual burden of reporting under the new thresholds is $777,391. Therefore, we estimate that the annual cost savings or benefit to industry after implementation of this final rule is $45,560. Table 7 shows a summary of the annual current industry cost burden, the annual industry cost burden after implementation of the final rule, and the annual cost savings resulting from implementation of this final rule.

TABLE 7—TOTAL ANNUAL COST SAVINGS TO INDUSTRY BY REQUIREMENT AFTER IMPLEMENTATION OF THE FINAL RULE

Requirement	Current annual industry cost burden	Annual industry cost burden after implementation of final rule	Annual industry cost savings after implementation of final rule
Written report of marine casualty	$155,142	$146,926	$8,216
Additional burden for 10% of respondents	602,970	570,650	32,320
SMI written report	3,523	3,250	273
Testing procedures	61,316	56,565	4,751
Total	822,951	777,391	45,560

[19] Docket ID: USCG–2011–0710, *https://www.regulations.gov/docket?D=USCG-2011-0710.*

[20] The wage rate for a marine employer to complete Form CG–2692B and to report chemical test results to the OCMI is taken from existing COI number 1625–0001.

The total 10-year undiscounted industry cost savings of this final rule is $455,600. Table 8 shows the 10-year estimated discounted cost savings to industry to be $319,994, with an annualized cost savings of $45,560, using a 7-percent discount rate.

TABLE 8—TOTAL ESTIMATED COST SAVINGS OR INDUSTRY BENEFITS OF THE FINAL RULE OVER A 10-YEAR PERIOD OF ANALYSIS

[Discounted costs at 7 and 3 percent]

Year	Total undiscounted costs	Total, discounted	
		7%	3%
1	$45,560	$42,579	$44,233
2	45,560	39,794	42,945
3	45,560	37,191	41,694
4	45,560	34,758	40,479
5	45,560	32,484	39,300
6	45,560	30,359	38,156
7	45,560	28,372	37,044
8	45,560	26,516	35,965
9	45,560	24,782	34,918
10	45,560	23,160	33,901
Total	455,600	319,994	388,636
Annualized		45,560	45,560

Benefits or Cost Savings to Government

The benefit to the Federal Government is the difference between the baseline current cost to the Coast Guard and the cost to the Coast Guard after implementation of this final rule.

Current Costs to Government

We first estimated the current costs to the Coast Guard, which include the cost to investigate a marine casualty and the cost of processing marine casualty forms. Because an SMI is a type of marine casualty, the estimate for the cost of the investigation and the processing of the casualty forms includes those incidents that constitute an SMI. Reportable marine casualties are investigated by the Coast Guard. Some investigations may be more complex than others, depending on the incident. The Coast Guard reviewed the CG–741 (Coast Guard Office of Shore Forces) Sector Staffing Model to estimate the average number of hours per investigation across all incident types. The Sector Staffing Model assigns a total hourly effort for the type of incident (*e.g.,* allision, grounding, collision) that is matched against MISLE data, which then provides the resource needs for each Coast Guard Sector. We estimate that, across all types of incidents, these investigations take an average of 25 hours for a Lieutenant (LT; O–3) to complete. There is an average of 5,967 marine casualty cases per year. The fully loaded wage rate for an O–3 is $78 per hour, per Commandant Instruction 7310.1P. Table 9 shows the current annual cost of investigations to be $11,635,650 (5,967 reportable marine casualties × 25 burden hours × $78 wage rate).

The Coast Guard must process the forms submitted for each reportable marine casualty, and currently processes an average of 5,967 marine casualty reports per year. To maintain consistency and capture the changes due to this final rule, the time estimates and wage rates for processing the forms are taken from the existing COI 1625–0001. For each reportable marine casualty, we estimate that it takes 1 hour by a Lieutenant Junior Grade (LTJG; O–2) to process the forms (CG–2692 series), including auditing at a local field investigation office and the entry of pertinent information into Coast Guard's MISLE system. The fully loaded wage rate for an O–2 is $68 per hour, per Commandant Instruction 7310.1P. Table 9 shows the current annual cost for the Coast Guard to process reportable marine casualties to be $405,756 (5,967 reportable marine casualties × 1 burden hour × $68 wage rate). We estimate that the total current annual cost to the Federal Government is $12,041,406.

TABLE 9—CURRENT ANNUAL GOVERNMENT COSTS

Cost category	Reportable marine casualties	Burden hours per response	Annual hours	Wage rate	Annual cost
Investigation	5,967	25	149,175	$78	$11,635,650
Processing marine casualty reports	5,967	1	5,967	68	405,756
Total					12,041,406

Under this final rule, increasing the dollar amount threshold for property damage reduces the number of reportable marine casualties by 5.3 percent, resulting in 316 fewer reportable marine casualties. The burden hours per response for investigations and processing marine casualty reports remains the same, but the average number of reportable marine casualties decreases to 5,651 per year. We estimate that it takes an average of 25 hours for an O–3 to complete and investigate and 1 hour for an O–2 to process the forms for each reportable marine casualty. Table 10 shows the annual cost for the Coast Guard to complete investigations under this final

rule to be $11,019,450 (5,651 reportable marine casualties × 25 hour burden × $78). The annual cost to process reportable marine casualties after implementation of this final rule is $384,268 (5,651 reportable marine casualties × 1 hour burden × $68). We estimate that the total annual cost to the Federal Government is $11,403,718 after implementation of this final rule.

TABLE 10—ESTIMATED ANNUAL GOVERNMENT COSTS AFTER IMPLEMENTATION OF THE FINAL RULE

Cost category	Reportable marine casualties	Burden hours per response	Annual hours	Wage rate	Annual cost
Investigation	5,651	25	141,275	$78	$11,019,450
Processing marine casualty report	5,651	1	5,651	68	384,268
Total					11,403,718

The current annual cost to the Coast Guard to process marine casualty reports is $12,041,406. The annual cost to the Coast Guard after implementation of this final rule is $11,403,718. Therefore, the annual Federal Government benefit of reducing those reportable marine casualties that involve property damage alone is $637,688. This reduction, however, does not result in a need for fewer Coast Guard investigators, as the existing investigators will be able to focus efforts on higher consequence incidents. We estimate the total undiscounted cost savings or benefit of this final rule to the Federal Government to be $6,376,880 over the 10-year period of analysis. Table 11 shows the total estimated 10-year discounted cost savings to the Federal Government to be $4,478,854, with an annualized cost savings of $637,688, using a 7-percent discount rate.

TABLE 11—TOTAL ESTIMATED COST SAVINGS OR GOVERNMENT BENEFITS OF THE FINAL RULE OVER A 10-YEAR PERIOD OF ANALYSIS

[Discounted costs at 7 and 3 percent]

Year	Total undiscounted costs	Total discounted costs	
		7%	3%
1	$637,688	$595,970	$619,115
2	637,688	556,981	601,082
3	637,688	520,543	583,575
4	637,688	486,489	566,578
5	637,688	454,663	550,075
6	637,688	424,918	534,054
7	637,688	397,120	518,499
8	637,688	371,140	503,397
9	637,688	346,860	488,735
10	637,688	324,168	474,500
Total	6,376,880	4,478,854	5,439,608
Annualized		637,688	637,688

Total Cost Savings or Benefits of the Final Rule

Table 12 presents the total estimated benefits or cost savings of the final rule using 7- and 3-percent discount rates. We estimate the total 10-year (industry and Federal Government) undiscounted cost savings of this final rule to be $6,832,480. We estimate the total 10-year discounted cost savings of this final rule to be $4,798,848, and the annualized cost savings to be $683,248, using a 7-percent discount rate. Using a perpetual period of analysis, we estimate the total annualized cost savings of the final rule is $596,775 in 2016 dollars, using a 7 percent discount rate.

TABLE 12—TOTAL ESTIMATED COST SAVINGS OR BENEFITS OF THE FINAL RULE OVER A 10-YEAR PERIOD OF ANALYSIS

[Discounted benefits at 7 and 3 percent]

Year	Total undiscounted costs	Total, discounted	
		7%	3%
1	$683,248	$638,550	$663,348
2	683,248	596,775	644,027
3	683,248	557,734	625,269
4	683,248	521,247	607,057
5	683,248	487,146	589,376
6	683,248	455,277	572,209
7	683,248	425,493	555,543
8	683,248	397,657	539,362

TABLE 12—TOTAL ESTIMATED COST SAVINGS OR BENEFITS OF THE FINAL RULE OVER A 10-YEAR PERIOD OF ANALYSIS—Continued

[Discounted benefits at 7 and 3 percent]

Year	Total undiscounted costs	Total, discounted	
		7%	3%
9	683,248	371,642	523,653
10	683,248	347,329	508,401
Total	6,832,480	4,798,848	5,828,244
Annualized	.....	683,248	683,248

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this final rule has a significant economic impact on a substantial number of small entities. 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.

This final rule reduces the burden on industry by increasing the property damage dollar threshold amount within the definition of ''SMI'' and for reporting a marine casualty incident. There is no effect on any crewmember, owner, or operator of a vessel that does not have a reportable marine casualty or serious marine incident. There is no effect on any crewmember, owner, or operator of a vessel that has a marine casualty with property damage less than or equal to $25,000, or an SMI with damage less than or equal to $100,000, as these individuals currently do not have to report the casualty and will not have to do so under this final rule. There is no effect on any crewmember, owner, or operator of a vessel that has a marine casualty with property damage greater than $75,000, or an SMI with property damage greater than $200,000, as these individuals must currently report such casualties and perform chemical testing, and will continue to be required to do so under this final rule.

This final rule does not impose any direct costs on any specific industry. The only affected individuals are owners or operators of those vessels that would have been involved in a marine casualty where the only outcome is property damage of $25,000.01 through $75,000, or an SMI where the only outcome is property damage of $100,000.01 through $200,000. These entities, which would have incurred costs to report these casualties or conduct chemical testing, will be positively affected by this final rule because of the increase in the monetized threshold amounts.

As discussed in Section VI.A, Regulatory Planning and Review, of this final rule, we expect that an average of approximately 316 fewer reports of marine casualties will be required per year, with one individual per vessel who we assume to be a vessel crewmember completing each report. We assume the 316 marine casualty reports occur on 316 separate vessels. It is possible a vessel could have multiple incidents in one year, resulting in multiple marine casualty reports, but for this analysis we assume the 316 fewer reports are ascribed to 316 separate vessels. We compared this affected population to the total population that could have a marine casualty and be required to prepare and submit marine casualty reporting paperwork. We used the MISLE Vessel Population data to estimate the total population that will be affected. We found that the current total population of vessels that could have a marine casualty and be required to submit paperwork is 209,475.[21] Therefore, the 316 fewer vessels preparing marine casualty paperwork represents 0.15 percent of the total population.

The owners or operators of these 316 vessels benefit from a reduction in time burden associated with a crewmember no longer having to prepare and submit the required marine casualty reporting paperwork. Table 7 in Section VI summarizes the annual cost savings to industry by requirement. Table 13 shows these annual cost savings and the vessel population we estimated will benefit from each reduction in paperwork or testing requirement.

TABLE 13—MAXIMUM POTENTIAL COST SAVINGS PER VESSEL PER INCIDENT

Requirement	Total annual cost savings	Vessel population	Maximum potential cost savings per vessel
Written report of marine casualty	$8,216	316	$26
Additional Burden for 10% of Respondents	32,320	32	1,010
SMI written report	273	21	13
Testing Procedures	4,751	21	226
Totals	45,560	.....	1,275

[21] Population data were pulled from MISLE on 9/28/2016. The population is for commercial vessels that are active and in-service. The population includes commercial fishing vessels, fish processing vessels, freight barges, industrial vessels, mobile offshore drilling units, offshore supply vessels, oil recovery vessels, passenger (inspected and uninspected) vessels, passenger barges (inspected and uninspected), public freights, public tankships/barges, unclassified public vessels, research vessels, school ships, tank barges, tank ships, and towing vessels.

The total cost savings per vessel for the population of 316 vessels benefiting from this final rule will vary depending on the requirements. For example, we estimate that 32 of the vessels (10 percent of population, rounded) will have savings due to a reduction in marine casualty reports ($26), and an additional savings for the additional burden of reviewing the paperwork ($1,010), in any given year. Therefore, a one-time savings will be $1,036 for a vessel with only these two requirements. The minimum savings is $26 for a vessel that has only the requirement of preparing and submitting the marine casualty report. If a vessel would have had to complete all the requirements in table 13, the maximum cost savings is $1,275. This maximum cost savings will be for a vessel with a marine casualty designated as an SMI that completed additional paperwork and reported the chemical test results to the Officer in Charge, Marine Inspection (OCMI). Therefore, the owner or operator of the 316 vessels affected by this final rule would have to have maximum annual revenues of $2,600 to $127,500 for this final rule to have a positive impact greater than 1 percent.

Therefore, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities because the increase in the monetized property damage threshold amounts reduces the reporting burden on crewmembers or vessel owners or operators who complete the marine casualty reports or perform the required chemical testing, as described above. This final rule reduces the hourly burden associated with marine casualty reporting and chemical testing and will not adversely affect small entities as defined by the Small Business Administration in 13 CFR 121.201.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This final rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow.

Under the provisions of the final rule, the Coast Guard will collect information from ship personnel who are involved in marine casualties resulting in more than $75,000 in property damage, and serious marine incidents resulting in more than $200,000 in property damage. This requirement amends an existing collection of information by effectively reducing the number of instances requiring information to be collected under OMB control number 1625–0001.

Title: Report of Marine Casualty & Chemical Testing of Commercial Vessel Personnel.

OMB Control Number: 1625–0001.

Summary of the Collection of Information: This final rule requires responses such as the preparation of written notification by completing Form CG–2692 (series), and the processing of records. We use this information to identify pertinent safety lessons and to initiate appropriate steps for reducing the likelihood of similar accidents in the future. The collection of information will aid the regulated public in assuring safe practices.

Need for Information: These reporting requirements permit the Coast Guard to initiate the investigation of marine casualties as required by 46 U.S.C. 6301, in order to determine the causes of casualties and whether existing safety standards are adequate, or whether new laws or regulations need to be developed. Receipt of a marine casualty report is often the only way in which the Coast Guard becomes aware of a marine casualty. It is therefore a necessary first step that provides the Coast Guard with the opportunity to determine the extent to which a casualty will be investigated.

Proposed Use of Information: In the short term, the information provided in the report may also trigger corrective safety actions addressing immediate hazards or defective conditions, further investigations of mariner conduct or professional competence, or civil or criminal enforcement actions by the Coast Guard, other Federal agencies, or state and local authorities. In the long term, information contained in the report becomes part of the MISLE marine casualty database at Coast Guard Headquarters. The Coast Guard uses the information in the MISLE database to identify safety problems and long term trends, publish casualty summaries and annual statistics for public use, establish whether additional safety oversight or regulation is needed, measure the effectiveness of existing regulatory programs, and better focus limited Coast Guard marine safety resources.

Description of the Respondents: The respondents are those owners, agents, masters, operators, or persons in charge that notify the nearest Sector Office, Marine Inspection Office, or Coast Guard Group Office whenever a vessel is involved in a marine casualty. Specifically, this final rule affects those vessel crewmembers and marine employers who completed the necessary forms to report a marine casualty where the only outcome was property damage of $25,000.01 through $75,000, or an SMI with property damage of $100,000.01 through $200,000 (CG–2692 series).

Number of Respondents: We estimate that the number of respondents affected by this rule will be 5,651 per year. This is a decrease of 316 respondents from an OMB-approved number of respondents of 5,967 per year that complete the CG–2692 series forms (a subset of the total respondents in COI 1625–0001). We estimate that 250 of these marine casualty respondents fall under the category of SMI respondents and would have been required to fill out an additional SMI written report (CG–2692B). This is a decrease of 21 respondents per year from 271 respondents.

Frequency of Response: The notification response is required only if a marine casualty occurs as defined in 46 CFR 4.03–2 and 46 CFR 4.05–1.

Burden of Response: For each response, we estimate that it takes 1 hour for a vessel crewmember to complete all of the necessary forms (CG–2692 series). In addition, some marine casualty forms may undergo additional processing by the respondents. To account for this additional time, 10 percent of the forms submitted have 10 hours of additional

burden.[22] When a marine casualty is designated as an SMI, the marine employer must also complete an SMI written report (CG–2692B). We estimate that it takes 0.5 hours for a respondent to complete an SMI written report (CG–2692B)

Estimate of Total Annual Burden: We estimate that the number of responses will decrease by 316 per year. At 1 hour per response, the reduced burden for submitting the responses will be 316 hours. In addition, 10 percent of these responses would have required additional processing of 10 hours per response, for a reduction of an additional 320 burden hours.[23] We estimate that 21 of the responses would have been designated as an SMI. At 0.5 hours per SMI, the burden will be reduced by 11 hours (rounded). Therefore, this final rule decreases the total annual burden by 647 hours.[24]

This action contains amendments to the existing information collection requirements previously approved under OMB Control Number 1625–0001. As required by 44 U.S.C. 3507(d), we will submit a copy of this final rule to OMB for its review of the collection of information.

E. Federalism

A rule has implications for federalism under Executive Order 13132 (''Federalism'') if it has a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it does not have implications for federalism. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (See the Supreme Court's decision in United States v. Locke and Intertanko v. Locke, 529 U.S. 89, 120 S.Ct. 1135 (2000).) Because the States may not regulate within this category, preemption under Executive Order 13132 is not an issue.

F. 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.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (''Governmental Actions and Interference with Constitutionally Protected Property Rights'').

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, (''Civil Justice Reform''), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045 (''Protection of Children from Environmental Health Risks and Safety Risks''). This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211 (''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''). We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD (COMDTINST M164751D), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. This rule involves regulations concerning marine casualties and updates the monetary threshold amounts for a reportable marine casualty as well as the definition of an SMI relative to property damage. Thus, this action is categorically excluded under Section 2.b.2, figure 2–1, paragraph (34)(d) of COMDTINST M164751D.

[22] The Coast Guard estimates that it takes up to 1 hour to complete Form CG–2692 (series). However, we received public comments in 2013 on COI number 1625–0001 stating that some submitters take more time—up to 8 to 12 hours—to complete the form. Docket ID: USCG–2011–0710, *https://www.regulations.gov/docket?D=USCG-2011-0710.* The reason for this difference is that some entities have the form(s) reviewed by shore-side personnel, such as an attorney, prior to submission to the Coast Guard. The practice of having a form reviewed by an attorney is not required by Coast Guard regulation. While we believe that this does not typically occur, we adjusted our burden estimate to account for the added review.

[23] Due to rounding in the estimates, the current burden for the additional review is 5,970 hours. The burden under this final rule is 5,650 hours, which is a reduction of 320 hours.

[24] The current annual burden in COI 1625–0001 for completing the marine casualty forms, the additional processing for some respondents, and the time to complete the SMI forms is 12,073 hours. The annual burden under this final rule is 11,426 hours, a reduction of 647 hours.

List of Subjects in 46 CFR Part 4

Administrative practice and procedure, Drug testing, Investigations, Marine safety, National Transportation Safety Board, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR part 4 as follows:

PART 4—MARINE CASUALTIES AND INVESTIGATIONS

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

Authority: 33 U.S.C. 1231; 43 U.S.C. 1333; 46 U.S.C. 2103, 2303a, 2306, 6101, 6301, and 6305; 50 U.S.C. 198; Department of Homeland Security Delegation No. 0170.1. Subpart 4.40 issued under 49 U.S.C. 1903(a)(1)(E).

§ 4.03–2 [Amended]

■ 2. In § 4.03–2(a)(3), remove the text ''$100,000'' and add, in its place, the text ''$200,000''.

§ 4.05–1 [Amended]

■ 3. In § 4.05–1(a)(7), remove the text ''$25,000'' and add, in its place, the text ''$75,000''.

■ 4. In § 4.05–10, revise paragraph (a) to read as follows:

§ 4.05–10 Written report of marine casualty.

(a) The owner, agent, master, operator, or person in charge must, within 5 days, file a written report of any marine casualty required to be reported under § 4.05–1. This written report is in addition to the immediate notice required by § 4.05–1. This written report must be delivered to a Coast Guard Sector Office or Marine Inspection Office. It must be provided on Form CG–2692 (Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty), and supplemented as necessary by appended Forms CG–2692A (Barge Addendum), CG–2692B (Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service), CG–2692C (Personnel Casualty Addendum), and/or CG–2692D (Involved Persons and Witnesses Addendum).

* * * * *

■ 5. Revise § 4.05–12(b) introductory text and (d) to read as follows:

§ 4.05–12 Alcohol or drug use by individuals directly involved in casualties.

* * * * *

(b) In the written report (Forms CG–2692 and CG–2692B) submitted for the casualty, the marine employer must include information that—

* * * * *

(d) If an individual directly involved in a casualty refuses to submit to, or cooperate in, the administration of a timely chemical test, when directed by a law enforcement officer or by the marine employer, this fact must be noted in the official log book, if carried, and in the written report (Forms CG–2692 and CG–2692B), and shall be admissible as evidence in any administrative proceeding.

§ 4.06–3 [Amended]

■ 6. In § 4.06–3(a)(3) and (b)(2), remove the text ''form CG–2692B'' and add, in its place, the text ''Forms CG–2692 and CG–2692B''.

§ 4.06–5 [Amended]

■ 7. In § 4.06–5(b), remove the text ''form CG–2692B'' and add, in its place, the text ''Forms CG–2692 and CG–2692B''.

§ 4.06–30 [Amended]

■ 8. In § 4.06–30(b), remove the text ''(Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident)'' and add, in its place, the text ''(Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service)''.

§ 4.06–60 [Amended]

■ 9. Amend § 4.06–60 as follows:

■ a. In § 4.06–60(a), remove the text ''(Report of Required Chemical Drug and Alcohol Testing Following a Serious Marine Incident)'' and add, in its place, the text ''(Report of Mandatory Chemical Testing Following a Serious Marine Incident Involving Vessels in Commercial Service)''; and

■ b. In § 4.06–60(b), remove the text ''(Report of Marine Casualty, Injury or Death)'' and add, in its place, the text ''(Report of Marine Casualty, Commercial Diving Casualty, or OCS-Related Casualty)''.

Dated: March 8, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2018–05467 Filed 3–16–18; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
Vol. 83, No. 53
Monday, March 19, 2018

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1051

[Docket No. AO–15–0071; AMS–DA–14–0095]

Proposed California Federal Milk Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document announces the ratification of the evidentiary record of the California Federal Milk Marketing Order (FMMO) rulemaking proceeding by the United States Department of Agriculture (USDA) Judicial Officer (JO).

DATES: March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Erin Taylor, Acting Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, STOP 0231, Room 2969–S, 1400 Independence Ave. SW, Washington, DC 20250–0231, (202) 720–7311, email address: *erin.taylor@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: On February 5, 2015, AMS received a proposal from three dairy cooperatives requesting a hearing to promulgate a FMMO in California. Subsequently, AMS received additional proposals in April 2015. After publishing a notice of hearing on August 6, 2015 (80 FR 47210), AMS commenced a hearing on September 22, 2015, presided over by Administrative Law Judge (ALJ) Jill S. Clifton. At the conclusion of the hearing, AMS reviewed the hearing record and briefs filed subsequent to the hearing. AMS published the Recommended Decision and Opportunity to File Written Exceptions on February 14, 2017 (82 FR 10634).

On November 29, 2017, the Solicitor General of the United States submitted a brief to the U.S. Supreme Court in *Lucia* v. *Securities and Exchange Commission (Lucia),* 868 F.3d 1021 (D.C. Cir. 2017) (en banc) (per curiam), *cert. granted,* No. 17–130 (U.S. January 12, 2018). The Government's position is that ALJs are ''inferior officers'' of the United States, subject to the Appointments Clause of Article II of the Constitution. The Solicitor General urged the Court to grant a writ of certiorari and resolve a circuit split concerning the Constitutional requirements for ALJ appointments. On January 12, 2018, the Court did so. The Court is expected to hear oral arguments in *Lucia* during the current term and to render its decision on or before the end of its term on June 30, 2018.

AMS published a final rule to amend the definition of ''judge'' in the rules of practice and procedure to formulate or amend a marketing agreement, marketing order, or certain research and promotion orders (82 FR 58097). The new definition adds a presiding official appointed by the Secretary as an official who may preside over the rulemaking hearing, in addition to an administrative law judge. AMS then published a delay of rulemaking on February 6, 2018 (83 FR 5215) indicating the agency's intention to await the U.S. Supreme Court decision on the *Lucia* case prior to proceeding further with the California FMMO rulemaking proceeding. Subsequently, effective February 14, 2018, the Secretary of Agriculture appointed the USDA JO to serve as the judge presiding over the formal rulemaking proceedings for the California FMMO. The Secretary instructed the JO to conduct an independent de novo review of the hearing record and either ratify or modify any decision made by the ALJ.

On March 9, 2018, the USDA JO completed his review and ratified all of ALJ Clifton's actions, including instructions regarding corrections to exhibits, rulings on objections, rulings on the admission of evidence, rulings on the conduct of the hearing, and rulings on requests for corrections to the transcript of the hearing. The JO ratified ALJ Clifton's Certification of the Transcript, except that he revised the list of exhibits that ALJ Clifton identified as not having been admitted into evidence by adding ''Exhibit 108-Exhibit D'' to that list.

Consequently, USDA will move forward with the California FMMO rulemaking proceeding by issuing and publishing a final decision in the **Federal Register**.

Prior documents in this proceeding:

Notice of Hearing: Issued July 27, 2015; published August 6, 2015 (80 FR 47210);

Notice to Reconvene Hearing: Issued September 25, 2015; published September 30, 2015 (80 FR 58636);

Recommended Decision and Opportunity to File Written Exceptions: Issued February 6, 2017; published February 14, 2017 (82 FR 10634);

Documents for Official Notice: Issued August 8, 2017; published August 14, 2017 (82 FR 37827);

Information Collection—Producer Ballots: Issued September 27, 2017; published October 2, 2017 (82 FR 45795); and

Delay of Rulemaking: Issued February 1, 2018; published February 6, 2018 (83 FR 5215).

Authority: 7 U.S.C. 601–674.

Dated: March 14, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–05543 Filed 3–16–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0204; Product Identifier 2018–CE–003–AD]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam srl Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an incorrect part number

for the rudder trim actuator is referenced in the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual) and the life limit for that part may not be properly applied in service. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by May 3, 2018.

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

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

For service information identified in this proposed AD, contact Costruzioni Aeronautiche Tecnam srl, Via Tasso, 478, 80127 Napoli, Italy, phone: +39 0823 620134, fax: +39 0823 622899, email: *airworthiness@tecnam.com,* internet: *https://www.tecnam.com/us/support/.* You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0204; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Albert Mercado, Aerospace Engineer FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0204; Product Identifier 2018–CE–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://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

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No. 2018–0029, dated January 31, 2018 (referred to after this as ''the MCAI''), to address an unsafe condition for the specified products. The MCAI states:

> It was identified that the Part Number (P/N) of the rudder trim actuator mentioned in the P2006T Aircraft Maintenance Manual (AMM) Airworthiness Limitations Section (ALS) document was erroneously mentioned. As a result, it cannot be excluded that the life limit applicable to this actuator is not being applied in service.
>
> This condition, if not corrected, could lead to failure of the rudder control system, possibly resulting in reduced control of the aeroplane.
>
> To address this potential unsafe condition, TECNAM published Service Bulletin (SB)–285–CS Ed. 1 Rev. 0 (later revised) to inform operators about this typographical error. It is expected that, during the next revision of the P2006T AMM ALS document, it will list the correct the P/N for that rudder trim actuator.
>
> For the reason described above, this [EASA] AD requires implementation of a life limit for rudder trim actuator.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0204.

Related Service Information Under 1 CFR Part 51

Costruzioni Aeronautiche Tecnam srl has issued Service Bulletin No. SB 285–CS–Ed 1, Revision 2, dated February 2, 2018. The service information describes procedures for correcting the part number of the rudder trim actuator in the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). 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 of this NPRM.

FAA's Determination and Requirements of the Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 20 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the proposed requirement to incorporate a correction to the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $1,700, or $85 per product.

Authority for This Rulemaking

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

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

This AD is issued in accordance with authority delegated by the Executive

Director, Aircraft Certification Service, as authorized by FAA Order 8000.51C. In accordance with that order, issuance of ADs is normally a function of the Compliance and Airworthiness Division, but during this transition period, the Executive Director has delegated the authority to issue ADs applicable to small airplanes, gliders, balloons, airships, domestic business jet transport airplanes, and associated appliances to the Director of the Policy and Innovation Division.

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

Costruzioni Aeronautiche Tecnam srl: Docket No. FAA–2018–0204; Product Identifier 2018–CE–003–AD.

(a) Comments Due Date

We must receive comments by May 3, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam srl Model P2006T airplanes, all serial numbers that do not incorporate design change TECNAM modification (Mod) 2006/322 at production, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 27: Flight Controls.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an incorrect part number for the rudder trim actuator is referenced in the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual) and the life limit for that part may not be properly applied in service. We are issuing this AD to prevent failure of the rudder trim actuator, which could cause the rudder control system to fail. This failure could result in reduced control of the airplane.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (3) of this AD. The hours time-in-service (TIS) specified in paragraph (f)(1) of this AD are those accumulated on the rudder trim actuator, P/N B6–7T, since first installed on an airplane. If the total hours TIS are unknown, the hours TIS on the airplane must be used.

(1) Initially replace the rudder trim actuator, part number (P/N) B6–7T, at the compliance time in paragraphs (f)(1)(i) or (ii) of this AD that occurs later:

(i) Before accumulating 1,000 hours TIS; or

(ii) Within the next 25 hours TIS after the effective date of this AD or within the next 30 days after the effective date of this AD, whichever occurs first.

(2) After the initial replacement required in paragraph (f)(1) of this AD, repetitively thereafter replace the rudder trim actuator, P/N B6–7T at intervals not to exceed 1,000 hours TIS.

(3) Within the next 12 months after the effective date of this AD, revise the Airworthiness Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual) incorporating the 1,000-hour life limit for the rudder trim actuator, P/N B6–7T, as specified in Costruzioni Aeronautiche Tecnam srl (TECNAM) Service Bulletin No. SB 285–CS–Ed 1, Revision 2, dated February 2, 2018.

(g) Credit for Actions Done Following Previous Service Information

This AD allows credit for compliance with paragraph (f)(3) of this AD if done before the effective date of this AD using TECNAM Service Bulletin No. SB 285–CS–Ed 1, Revision 1, dated November 7, 2017.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Small Airplane Standards Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Albert Mercado, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4119; fax: (816) 329–4090; email: *albert.mercado@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(i) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2018–0029, dated January 31, 2018; and Costruzioni Aeronautiche Tecnam srl Service Bulletin No. SB 285–CS–Ed 1, Revision 1, dated November 7, 2017, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0204. For service information related to this AD, contact Costruzioni Aeronautiche Tecnam srl, Via Tasso, 478, 80127 Napoli, Italy, phone: +39 0823 620134, fax: +39 0823 622899, email: *airworthiness@tecnam.com,* internet: *https://www.tecnam.com/us/support/.* You may review this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on March 7, 2018.

Pat Mullen,

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

[FR Doc. 2018–05138 Filed 3–16–18; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 274

[Release No. IC–33046; File No. S7–04–18]

RIN 3235–AM30

Investment Company Liquidity Disclosure

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing amendments to its forms designed to improve the reporting and disclosure of liquidity information by registered open-end investment companies. The Commission is proposing a new requirement that

funds disclose information about the operation and effectiveness of their liquidity risk management program in their annual reports to shareholders. The Commission in turn is proposing to rescind the current requirement in Form N–PORT under the Investment Company Act of 1940 that funds publicly disclose aggregate liquidity classification information about their portfolios, in light of concerns about the usefulness of that information for investors. In addition, the Commission is proposing amendments to Form N–PORT that would allow funds classifying the liquidity of their investments pursuant to their liquidity risk management programs required by rule 22e–4 under the Investment Company Act of 1940 to report on Form N–PORT multiple liquidity classification categories for a single position under certain specified circumstances. Finally, the Commission is proposing to add to Form N–PORT a new requirement that funds and other registrants report their holdings of cash and cash equivalents.

DATES: Comments should be received on or before May 18, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/proposed.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number S7–04–18 on the subject line; or

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–04–18. This file number should be included on the subject line if email is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/proposed.shtml*). Comments are also 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. 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.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Zeena Abdul-Rahman, Senior Counsel, or Thoreau Bartmann, Senior Special Counsel, at (202) 551–6792, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (the ''Commission'') is proposing for public comment amendments to Form N–PORT [referenced in 17 CFR 274.150] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''Investment Company Act'' or ''Act'') and amendments to Form N–1A [referenced in 17 CFR 274.11A] under the Investment Company Act and the Securities Act of 1933 (''Securities Act'') [15 U.S.C. 77a *et seq.*].

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I. Background

On October 13, 2016, the Commission adopted new rules and forms as well as amendments to its rules and forms to modernize the reporting and disclosure of information by registered investment companies (''funds''),[1] including information about the liquidity of funds' portfolios.[2] In particular, the Commission adopted new Form N–PORT, which requires mutual funds and exchange traded funds (''ETFs'') to electronically file with the Commission monthly portfolio investment information on Form N–PORT, a structured data reporting form.[3] On the same day, the Commission also adopted rule 22e–4, a new form, and related rule and form amendments to enhance the regulatory framework for liquidity risk management of funds.[4] Among other things, rule 22e–4 requires a fund to classify each portfolio investment into one of four defined liquidity categories, sometimes referred to as ''buckets.''[5]

In connection with the liquidity classification requirement of rule 22e–4, a fund is also required to report confidentially to the Commission the liquidity classification assigned to each of the fund's portfolio investments on

[1] The term ''funds'' used in this release includes open-end management companies, including exchange-traded funds (''ETFs'') and excludes money market funds.

[2] Investment Company Reporting Modernization, Investment Company Act Release No. 32314 (Oct. 13, 2016) [81 FR 81870 (Nov. 18, 2016)] (''Reporting Modernization Adopting Release''). *See also* Investment Company Liquidity Risk Management Programs, Investment Company Act Release No. 32315 (Oct. 13, 2016) [81 FR 82142 (Nov. 18, 2016)] (''Liquidity Adopting Release'').

[3] Registered money market funds and small business investment companies are exempt from Form N–PORT reporting requirements.

[4] Specifically, we adopted rules 22e–4 and 30b1–10, new Form N–LIQUID, as well as amendments to Forms N–1A, N–PORT and N–CEN. *See* Liquidity Adopting Release, *supra* footnote 2.

[5] Rule 22e–4 requires each fund to adopt and implement a written liquidity risk management program reasonably designed to assess and manage the fund's liquidity risk. A fund's liquidity risk management program must incorporate certain specified elements, including, among others, the requirement that funds classify the liquidity of each of the fund's portfolio investments into one of four defined liquidity categories: Highly liquid investments, moderately liquid investments, less liquid investments, and illiquid investments (''classification''). This classification is based on the number of days in which a fund reasonably expects an investment would be convertible to cash (or, in the case of the less-liquid and illiquid categories, sold or disposed of) without the conversion significantly changing the market value of the investment. Rule 22e–4 also requires funds to establish a highly liquid investment minimum, and includes requirements related to policies and procedures on redemptions in kind and evaluation of the liquidity of new unit investment trusts. Rule 22e–4 also includes other required elements, such as limits on purchases of illiquid investments, reporting to the board, and recordkeeping.

Form N–PORT.[6] Each portfolio holding must be assigned to a single classification bucket. A fund must also publicly report on Form N–PORT the aggregate percentage of its portfolio investments that falls into each of the four liquidity classification categories noted above.[7] This aggregate information would be disclosed to the public only for the third month of each fiscal quarter with a 60-day delay. Form N–PORT does not currently require funds to report the cash they hold.[8]

We designed rule 22e–4 and the related rules and forms to promote effective liquidity risk management throughout the fund industry and to enhance disclosure regarding fund liquidity and redemption practices.[9] As discussed in detail below, since we adopted these requirements, Commission staff has engaged in extensive outreach with funds and other interested parties as they have sought to design the new systems and processes necessary to implement the new rules. As a complement to that engagement process, we have received letters [10] raising concerns that the public disclosure of a fund's aggregate liquidity classification information on Form N–PORT may not achieve our intended purpose and may confuse and mislead investors.[11] These letters detail the methodologies that fund groups are designing and implementing to conduct the liquidity classification, the disparate assumptions that underlie them, and the variability in classification that can occur as a result.[12] As we discuss further in section II.A below, these letters have caused us to question whether the current approach of disclosing aggregate liquidity fund profiles through Form N–PORT is the most accessible or useful way to facilitate public understanding of fund liquidity.[13] Specifically, when the new rules take effect, the Commission will receive more granular position-level liquidity classification information and can request the fund's methodologies and assumptions underlying their classification, while investors would have access only to the aggregate information on Form N–PORT without the necessary context. However, the Commission continues to believe, as it articulated when it adopted the final rule, that it is important for investors to receive information about a fund's liquidity, which can help investors better understand the risks they may be assuming through an investment in the fund.

In light of the comments we have received, we preliminarily believe that providing different information to investors via a different form would more effectively achieve the Commission's policy goal of promoting investor understanding of the liquidity risks of the funds in which they have invested, while minimizing risks of investor confusion. Accordingly, we are proposing to replace the requirement for a fund to publicly report to the Commission on Form N–PORT the aggregate liquidity portfolio classification information on a quarterly basis with new disclosure in the fund's annual shareholder report that provides a narrative discussion of the operation and effectiveness of the fund's liquidity risk management program over the reporting period.[14]

Second, we are proposing additional amendments to Form N–PORT that would allow a fund to report a single portfolio holding in multiple classification buckets under certain defined circumstances. Currently, a fund is required to choose only one classification bucket, even in circumstances where splitting that holding up into multiple classification buckets may better reflect the actual liquidity characteristics of that position. We believe that permitting funds to split a single portfolio holding into multiple buckets under circumstances where we believe that such reporting would be more or equally accurate, and in some cases less burdensome, would provide us with equal or better information at lower cost to funds (and thus, to fund shareholders).

Third, we are proposing to require funds and other registrants [15] to report holdings of cash and cash equivalents on Form N–PORT so that we may monitor trends in the use of cash and cash equivalents and, in the case of funds, more accurately assess the composition of a fund's highly liquid investment minimum (''HLIM'').

II. Discussion

A. Proposed Amendments to Liquidity Public Reporting and Disclosure Requirements

Today we are proposing to replace the requirement in Form N–PORT that a fund publicly disclose on an aggregate basis the percentage of its investments that it has allocated to each liquidity classification category with a new narrative discussion in the fund's annual report regarding its liquidity risk management program. The narrative discussion would include disclosure about the operation and effectiveness of the fund's implementation of its required liquidity risk management program during the most recently

[6] Item C.7 of Form N–PORT.

[7] Item B.8.a of Form N–PORT. Form N–PORT also requires public reporting of the percentage of a fund's highly liquid investments that it has segregated to cover, or pledged to satisfy margin requirements in connection with, derivatives transactions that are classified as moderately liquid, less liquid, or illiquid investments. Item B.8.b of Form N–PORT.

[8] Although the requirements of rule 22e–4 and Form N–PORT discussed above are in effect, the compliance date has not yet occurred. Accordingly, no funds are yet reporting this liquidity-related information on Form N–PORT. In another release issued earlier, among other things, we extended the current compliance date for certain classification-related provisions of rule 22e–4 and their associated Form N–PORT reporting requirements by six months. *See* Investment Company Liquidity Risk Management Programs; Commission Guidance for In-Kind ETFs, Investment Company Act Release No IC–33010; (Feb. 22, 2018) [83 FR 8342 Feb. 27, 2018)] (''Liquidity Extension Release'').

[9] *See* Liquidity Adopting Release, *supra* footnote 2, at n.112 and accompanying text.

[10] These letters (File No. S7–04–18) are available at *https://www.sec.gov/comments/s7-04-18/s70418.htm.*

[11] *See, e.g.,* Letter from SIFMA AMG to Chairman Jay Clayton, Commissioner Stein, and Commissioner Piwowar (Sept. 12, 2017) (''SIFMA AMG Letter''); Letter from Nuveen, LLC on Investment Company Liquidity Risk Management Programs (Nov. 20, 2017) (''Nuveen letter'') (urging the SEC not to publicly disclose the liquidity classification information submitted via new Form N–PORT); Letter from TCW to Chairman Jay Clayton, Commissioner Stein, and Commissioner Piwowar (Sept. 15, 2017) (''TCW Letter'').

[12] *See, e.g.,* Letter from the Investment Company Institute to The Honorable Jay Clayton (July 20, 2017) (''ICI Letter I''); Supplemental Comments on Investment Company Liquidity Risk Management Programs from the Investment Company Institute (Nov. 3, 2017) (''ICI Letter II''); Letter from Invesco Advisers, Inc. on Investment Company Liquidity Risk Management Programs (Nov. 8, 2017); Letter from Vanguard on Investment Company Liquidity Risk Management Programs (Nov. 8, 2017); Letter from John Hancock on Investment Company Liquidity Risk Management Programs (Nov. 10, 2017): Letter from T. Rowe Price Associates, Inc. on Investment Company Liquidity Risk Management Programs (Nov. 10, 2017); Letter from Federated Investors, Inc. on Liquidity Risk Management Rule 22e–4 (Feb. 6, 2018) (''Federated Letter'').

[13] *See infra* text following footnote 18. Funds may also choose to provide additional context non-publicly to the Commission in the explanatory notes section (Part E of Form N–PORT).

[14] As discussed below, we also are proposing a related change to make non-public (but not eliminate) the disclosure required under Item B.8 of Form N–PORT about the percentage of a fund's highly liquid investments segregated to cover or pledged to satisfy margin requirements in connection with certain derivatives transactions, given that this information is only relevant when viewed together with full liquidity classification information.

[15] The term ''registrants'' refers to entities required to file Form N–PORT, including all registered management investment companies, other than money market funds and small business investment companies, and all ETFs (regardless of whether they operate as UITs or management investment companies). *See* rule 30b1–9.

completed fiscal year.[16] A fund already is required to disclose a summary of the principal risks of investing in the fund, including liquidity risk if applicable, in its prospectus.[17] Therefore, in combination, these disclosures will provide new and existing investors with information about the expected liquidity risk of the fund and ongoing disclosure to existing shareholders (and to new investors to the extent that they have access to annual reports) regarding how the fund continues to manage that risk, along with other factors affecting the fund's performance. This revised approach is designed to provide accessible and useful disclosure about liquidity risk management to investors, with appropriate context, so that investors may understand its nature and relevance to their investments.

1. Concerns With Public Aggregate Liquidity Profile

As noted above, since the Commission adopted rule 22e–4 and the related rule and form amendments, Commission staff has engaged extensively with interested parties regarding progress toward implementation. As a complement to that engagement process, we have received letters from industry participants discussing the complexities of the classification process.[18] These commenters raised three general types of concerns that informed this proposal's revised approach to public fund liquidity-related disclosure. First, commenters described how variations in methodologies and assumptions used to conduct liquidity classification can significantly affect the classification information reported on Form N–PORT in ways that investors may not understand (''subjectivity''). Second, the commenters suggested that Form N–PORT may not be the most accessible and useful way to communicate information about liquidity risk and may not provide the necessary context for investors to understand how the fund's classification results relate to its liquidity risk and risk management (''lack of context''). Third, the commenters argued that because this reporting item on Form N–PORT singles out liquidity risk, and does not place it in a broader context of the risks and factors affecting a fund's risk, returns, and performance, it may inappropriately focus investors on one investing risk over others (''liquidity risk in isolation''). Below we discuss these considerations—and why we preliminarily believe the proposed revisions to disclosure requirements on Form N–1A address these concerns while satisfying our public disclosure goals, including the need to provide shareholders and other users with improved information about funds' liquidity risk profile.[19]

Subjectivity

Commenters emphasized that classification is a subjective process.[20] It is based on underlying data, assumptions, measurement periods, and complex statistical algorithms that can vary significantly. Accordingly, different managers classifying the same investment may vary in the way they weigh these factors and come to different classification conclusions, which would be consistent with our intent in adopting the rule.[21]

Commenters stated, however, that presenting liquidity classification information in a standard format—as the final rule requires—inaccurately implies to investors that the classifications for all funds were formed through a uniform process and that the resulting classifications would be comparable across funds.[22] Commenters suggested that, because of the lack of such uniformity of classification, using a fund's liquidity profile to make comparisons between funds may mislead investors and could lead to investors basing investment decisions on inappropriate grounds.[23]

Commenters suggested that this subjectivity and seeming appearance of uniformity in content may have a variety of other pernicious effects. For example, commenters suggested investors may, in choosing between two funds that are have similar investment objectives, pick the fund that appears to have more highly liquid investments (and potentially, thereby, a lower liquidity risk) without understanding the subjectivity that underlies the classification process.[24] As a result, the public disclosure of liquidity profiles may provide funds an incentive to classify their securities as more liquid in order to make their funds appear more attractive to investors, further increasing the risk of investor confusion.[25] Such incentive to classify assets as more liquid, if widespread, could undermine the Commission's objectives for the fund's proper management of its liquidity risks through its liquidity risk management program and its monitoring efforts. One commenter also suggested that the size of the fund may have disproportionate effects on its liquidity classification results, and thus the fund's overall aggregate liquidity profile.[26] As a result, they argued that investors may be confused by, or unaware of the causes of, the differences in results between large and small portfolios' liquidity profiles, and may inappropriately believe that smaller portfolios have less liquidity risk.[27]

[16] *See* proposed amendments to Item B.8 of Form N–PORT and proposed Item 27(b)(7)(iii) of Form N–1A.

[17] *See* Item 4(b) of Form N–1A. In addition, Item 9(c) of Form N–1A requires a fund to disclose all principal risks of investing in the fund, including the risks to which the fund's particular portfolio as a whole is expected to be subject and the circumstances reasonably likely to affect adversely the fund's net asset value, yield, or total return.

[18] *See supra* footnotes 10–12.

[19] *See* Liquidity Adopting Release, *supra* footnote 2, at text following n.626.

[20] *See, e.g.,* TCW Letter (stating that many different managers weighing different factors and using disparate data can result in different liquidity classification results across managers for the same security). *See also* SIFMA AMG Letter.

[21] *See* Liquidity Adopting Release, *supra* footnote 2, at n. 596 and accompanying text. (''We recognize that liquidity classifications, similar to valuation- and pricing-related matters, inherently involve judgment and estimations by funds. We also understand that the liquidity classification of an asset class or investments may vary across funds depending on the facts and circumstances relating to the funds and their trading practices.'').

[22] *See, e.g.,* SIFMA AMG Letter. We note that in the Liquidity Adopting Release, we considered certain proposed uniform approaches to liquidity classification that would have less subjective inputs, and discussed why we believed that the approach we adopted most effectively achieves our goals. This is in part because such approaches that do not include subjective inputs may not have resulted in liquidity classification data that is informed by fund advisers' actual trading experience. *See, e.g.,* Liquidity Adopting Release, *supra* footnote 2, at section III.C.

[23] *See* SIFMA AMG Letter and Nuveen Letter. *See also* Kristin Grind, Tom McGinty, and Sarah Krouse, *The Morningstar Mirage,* The Wall Street Journal, (Oct. 25, 2017), *available at https://www.wsj.com/articles/the-morningstar-mirage-1508946687* (discussing issues with investors basing investing decisions on evaluations of funds without necessarily understanding the bases of those evaluations or their limitations).

[24] *See* TCW Letter (''Investors could flock to more apparently liquid funds, only to discover too late that classifications did not actually provide comparable liquidity data''); *see also* Nuveen Letter (''[T]he classification information that will be reported via Form N–PORT may lead the public to draw inappropriate conclusions about a fund's liquidity. . . . [I]nvestors, intermediaries, and financial advisers may be misled as to the value of such information, and use it as the basis for investment decisions despite this lack of understanding.'').

[25] *See* SIFMA AMG Letter. We acknowledged in the Liquidity Adopting Release that the classification status of a security ''inherently involve[s] judgment and estimations by funds'' and that ''the liquidity classification of an asset class or investments may vary across funds depending on the facts and circumstances relating to the funds and their trading practices.'' *See* Liquidity Adopting Release, *supra* footnote 2, at text accompanying n.596.

[26] *See* ICI Letter II, at Appendix C.

[27] ICI Letter II (providing a liquidity analysis of a variety of investments, which found that smaller portfolios nearly always appeared to have a highly liquid aggregate profile, while larger portfolios holding the same positions appeared to have a less liquid profile).

Lack of Context

Commenters suggested that the format of the Form N–PORT disclosure does not give funds the opportunity to explain to the public the underlying assumptions for their classification, nor can they tailor the disclosure to their specific risks. One commenter asserted that, because the aggregate liquidity profile is to be reported on Form N–PORT, the information will only be understandable by sophisticated users or intermediaries.[28] They argued that for investors to have a sufficient understanding of the role classification plays in a fund's liquidity risks, investors need contextual information regarding the underlying subjective assumptions and methodologies used by the fund in its classification process.[29] They noted that Form N–PORT does not provide context or additional information that would help investors understand the assumptions and methodologies used for liquidity-related information.[30]

Liquidity Risk in Isolation

One commenter also suggested that the information publicly disclosed on Form N–PORT singles out liquidity risk, and that focusing on liquidity risk in isolation, presented through an unexplained aggregate liquidity profile of a fund, may encourage investors to focus overly on liquidity risk, compared to other risks that may be far more important to their long-term investment goals.[31] An investor choosing between two funds with comparable investment objectives and performance may choose a fund that appears to have more highly liquid investments, without adequately considering other risks of their investment and how they relate to liquidity risk. For example, an isolated focus on liquidity risk may result in investors not evaluating whether such a fund is achieving comparable performance despite maintaining low-yielding assets through use of derivatives or other leverage, and whether the investor is comfortable with the trade-off of liquidity versus leverage risks.

2. New Approach to Liquidity Risk Disclosure

We continue to believe it is im{ant for investors to understand the liquidity risks of the funds they hold and how those risks are managed. However, we appreciate commenters' concerns that public dissemination of the aggregate classification information, without an accompanying explanation to investors of the underlying subjectivity, methodological decisions, and assumptions that shape this information, and other relevant context, may be potentially misleading to investors.[32] As discussed above, in light of the variability of the classification process under rule 22e–4, we do not believe it is appropriate to adapt Form N–PORT to provide the level of detail and narrative context necessary for investors to effectively appreciate the fund's liquidity risk profile.[33] We also believe that it may take significant detailed disclosure and nuanced explanation to effectively inform investors about the subjectivity and limitations of aggregate liquidity classification information so as to allow them to properly make use of the information. Such lengthy disclosure may not be the most accessible and useful way to accomplish the Commission's goals. To the extent that such disclosure would need to be granular and detailed to effectively explain the process, it may also not be consistent with the careful balancing of investor interests that the Commission performed in determining to require disclosure of sensitive granular information, including position-level data, only on a non-public basis.[34]

We also appreciate how the public dissemination of the aggregate classification information could create perverse incentives to classify investments as more liquid, and may inappropriately single out liquidity risk compared to other risks of the fund. Additionally, we are concerned that disclosing funds' aggregate liquidity profile may potentially create risks of coordinated investment behavior, if, for example, funds were to create more correlated portfolios by purchasing investments that they believed third parties, such as investors or regulators, may view as ''more liquid.'' [35] Such risks may both increase the possibility of correlated market movements in times of stress, and may potentially reduce the utility of the classification data reported to us. We now preliminarily believe that effective disclosure of liquidity risks may be better achieved through another disclosure vehicle, rather than Form N–PORT, which would not present the potential drawbacks discussed above.

Accordingly, as discussed previously, we are proposing to replace the requirement for funds to disclose their aggregate liquidity profile on a quarterly basis on Form N–PORT with a new requirement for funds to discuss briefly the operation and effectiveness of a fund's liquidity risk management program in the fund's annual report to shareholders, as part of its management discussion of fund performance (''MDFP'').[36] This disclosure would complement existing liquidity risk disclosure that funds provide in their prospectus (if it is a principal investment risk of the fund).

[28] SIFMA AMG Letter (asserting that Form N–PORT aggregate classification disclosure puts less sophisticated investors at a disadvantage because ''[u]nlike securities traded in the secondary markets, in which all market participants can be expected to benefit from publicly available information through the efficient market pricing mechanism, mutual fund shares are purchased and sold directly with the fund at net asset value per share. Thus, there is no automatic market mechanism for sophisticated investors' superior understanding of the liquidity information and its limitations to be transmitted to less sophisticated investors.'').

[29] *See generally* SIFMA AMG Letter (arguing that the classification process ''relies heavily on judgments from portfolio managers and others, based on predictions and extrapolation of data, which are then combined with other judgments from other sources based on similar assumptions .* .* *. For the investing public, which will see only quarterly percentages 60–151 days after the fact [on Form N–PORT], without context or explanation, this information will be at best meaningless and more likely misleading.''); *see also* Nuveen Letter (similarly arguing that classification information that will be reported via Form N–PORT may lead the public to draw inappropriate conclusions about a fund's liquidity and that this information ''will also be inherently subjective, as the classification process relies heavily on judgments from portfolio managers and other sources based on a series of assumptions that may vary among firms and even within firms.'').

[30] SIFMA AMG Letter. This commenter also noted that because the aggregate liquidity profile would be a backward looking review of a fund's liquidity presented only quarterly, with a 60 day delay, it may be inappropriate and misleading if investors were to base investing decisions on this information without being provided context about its potential staleness.

[31] SIFMA AMG Letter (concerned that the focus on liquidity risk in isolation would encourage investors to exaggerate the importance of liquidity risk relative to other risks that may be far more important to their long-term investment goals.).

[32] The Commission has access to the more granular position-level liquidity classification information as well as funds' methodologies and assumptions, and thus does not face these same challenges in interpreting the classification data.

[33] We believe that due to the variability and subjective inputs required to engage in liquidity classification under rule 22e–4, providing effective information about liquidity classifications under that rule to investors poses difficult and different challenges than the other data that is publicly disclosed on Form N–PORT, which is more objective and less likely to vary between funds based on their particular facts and circumstances.

[34] As discussed in the Liquidity Adopting Release, we determined that liquidity classification data on individual securities was necessary for our monitoring efforts, but not appropriate or in the public interest to be disclosed to investors or other market participants in light of the inherent variability of the classification process and the potential for predatory trading using such granular information.'' *See* Liquidity Adopting Release, *supra* footnote 2, at text accompanying nn.613–615.

[35] *See* ICI Letter I.

[36] Proposed Item 27(b)(7)(iii) of Form N–1A.

The proposed amendments to Form N–1A would require funds to ''briefly discuss the operation and effectiveness of the Fund's liquidity risk management program during the most recently completed fiscal year.'' [37] To satisfy this requirement, a fund generally should provide information about the operation and effectiveness of the program, and insight into how the program functioned over the past year.[38] This discussion should provide investors with enough detail to appreciate the manner in which a fund manages its liquidity risk, and could, but would not be required to, include discussion of the role of the classification process, the 15% illiquid investment limit, and the HLIM in the fund's liquidity risk management process.[39]

For example, as part of this new disclosure, a fund might opt to discuss the particular liquidity risks that it faced over the past year, such as significant redemptions, changes in the overall market liquidity of the investments the fund holds, or other liquidity risks, and explain how those risks were managed and addressed, and whether those risks affected fund performance. If the fund faced any significant liquidity challenges in the past year, it could opt to discuss how those challenges affected the fund and how they were addressed. Funds may also wish to provide context and other supplemental information about how liquidity risk is managed in relation to other investing risks of the fund. We note that this new disclosure would not require a fund to disclose any specific classification information, either security specific or in the aggregate, although a fund could do so if it wished. Also, consistent with the current rule, it would not require a fund to disclose publicly the level of its HLIM, any shortfalls or changes to it, or any breaches of the 15% illiquid investment limit.[40] We expect that this disclosure should allow funds to provide context and an accessible and useful explanation of the fund's liquidity risk in relation to its management practices and other investment risks as appropriate.

Because the proposal would eliminate public disclosure of a fund's aggregate liquidity classification information, we would also re-designate reporting about the percentage of a fund's highly liquid investments that are segregated to cover, or pledged to satisfy margin requirements in connection with, derivatives transactions that are classified as Moderately Liquid Investments, Less Liquid Investments and Illiquid Investments to the non-public portion of the Form.[41] We believe public disclosure of this percentage of a fund's highly liquid investments would be of limited to no utility to investors without broader context and, therefore, may be confusing. However, we believe that funds should report this item to us on a non-public basis because we would otherwise be unable to determine the percentage of a fund's highly liquid investments that is actually unavailable to meet redemptions.[42]

We believe that these proposed amendments will provide effective disclosure that better informs investors of how the fund's liquidity risk and liquidity risk management practices affect their investment than the current Form N–PORT public liquidity risk profile.[43] The annual report disclosure provides a fund the opportunity to tailor its disclosure to the fund's specific risks. This would provide funds the opportunity to explain the level of subjectivity involved in liquidity assessment, and give a narrative description of these risks and how they are managed within the context of the fund's own investment strategy. This annual report disclosure should provide funds the ability to give sufficient context on these risks, in a way that the current Form N–PORT liquidity disclosure does not.

In addition, because funds deliver annual reports to their shareholders each year, the annual report may be a better vehicle for certain existing investors to gain access to liquidity risk information if they prefer to base their decisions partially on information delivered to them, versus information that they would need to seek out on Form N–PORT, whether directly from the Commission or via a third party service.[44] Moreover, third party services, in repackaging this information, may potentially use additional assumptions about the value or proper presentation of liquidity profiles, thereby introducing further subjectivity and variability about which investors may not be aware.[45] The proposed annual report disclosure also

[37] Proposed Item 27(b)(7)(iii) of Form N–1A.

[38] We considered whether to require funds to disclose specific elements of their liquidity risk management program, but we believe that such a requirement would unnecessarily limit the fund's ability to provide the appropriate level of context it believes necessary for investors to understand the fund's liquidity risks. We believe that a principles-based approach to this disclosure requirement would better achieve our goal of promoting investor understanding of fund liquidity risks, without risking investor confusion. Furthermore, we believe that a principles-based approach, rather than a prescriptive one, will give a fund the flexibility to disclose its approach to liquidity risk management in a manner most appropriate for the fund as part of its broader discussion of the fund's risks without placing undue emphasis on liquidity risks. We also believe that the approach we are proposing today is less likely to result in standardized boilerplate disclosure because it will allow funds to tailor disclosure to their particular liquidity risks and how they manage them.

[39] We note that rule 22e–4(b)(2)(iii) requires a fund board to review, no less frequently than annually, a report prepared by the program administrator that addresses the operation of the program over the last year and its adequacy and effectiveness. Because funds will already need to prepare a report on the program for these purposes, we expect that the disclosure requirement we are proposing today would be unlikely to create significant additional burdens as the conclusions in this report may be largely consistent with the overall conclusions disclosed to investors in the annual report.

[40] Under rule 22e–4 and related rules and forms, funds are not required to publicly disclose any shortfalls or changes to their HLIM or breaches of the 15% illiquid investment limit.

[41] We are proposing to do this by renumbering current Item B.8.b of Form N–PORT as Item B.8 and making this item non-public. This item requires public reporting of the percentage of a fund's highly liquid investments that it has segregated to cover, or pledged to satisfy margin requirements in connection with, derivatives transactions that are classified as moderately liquid, less liquid, or illiquid investments. Item B.8.b of Form N–PORT. We originally required this disclosure in order to avoid misleading investors about the actual availability of investments that are highly liquid investments to meet redemptions. *See* Liquidity Adopting Release, *supra* footnote 2, at n.623 and accompanying text.

[42] For these reasons, we find that it is neither necessary nor appropriate in the public interest or for the protection of investors to make this reporting about the percentage of a fund's highly liquid investments that is segregated to cover less liquid derivatives transactions publicly available.

[43] As an alternative to this new proposed narrative disclosure requirement, we considered moving the aggregate liquidity profile from Form N–PORT to the fund's annual report, which might allow funds to provide additional context and explanation of their methodology. However, we believe that such an approach might not address the concerns discussed above, as investors may still use the liquidity profile to compare funds despite its inherent subjectivity and variability.

[44] Although investors would be provided liquidity information only annually under our proposal (rather being able to access it quarterly through Form N–PORT), as discussed above we believe that investors may be more likely to access and appreciate liquidity information provided in the context of the annual report, rather than seeking out liquidity information on Form N–PORT or through third parties. Accordingly, we believe that the annual report is a more appropriate venue for providing liquidity information, even though it is updated less frequently than Form N–PORT.

[45] We recognize that third party service providers who provide tools that assist funds engaging in the classification process may have some insight into the methodologies and assumptions used by the funds they service which, if they were to repackage and distribute fund liquidity profile data, may allow them to provide context about such information. However, these service providers also may provide public information about funds they do not service, even if their insight into classification methodologies and assumptions may be inapplicable to these funds. Further, even when a third party service provider does assist a fund, that fund may not share all of the assumptions and methods that it ultimately uses in classification with its service provider, further limiting the utility of any such insight in providing context about the variability and lack of comparability of fund liquidity profiles.

would allow a fund to discuss liquidity risk as one among several risks, and does not require funds to provide any security or portfolio specific classification information. As a result, liquidity risk should not be inappropriately singled out among the other risks of the fund. Finally, because many funds deliver annual reports in conjunction with an annual delivery of the summary prospectus, investors may be able to evaluate the summary of the principal risks of investing in the fund contained in the summary prospectus, including liquidity risk if applicable, in conjunction with the liquidity risk management program disclosure we are proposing to include in the annual report. This may facilitate a more comprehensive understanding of the fund's liquidity risks and its management of these risks for investors.

To further assist in providing investors with information about fund liquidity, the staff anticipates that publishing aggregated and anonymized information about the fund industry's liquidity may be beneficial. We note that, since October 2015, Commission staff has published a periodic report that contains highly-aggregated and anonymized private fund industry statistics derived from Form PF data. This staff report is designed to enhance public understanding of the private fund industry and facilitate Commission staff participation in meetings and discussions with industry professionals, investors, and other regulators.[46] Publishing a similar staff report on the aggregated liquidity of funds may provide similar benefits as the Form PF report. We expect that the staff would publish the report periodically and that the report would discuss aggregated and anonymized liquidity data of all funds or funds in certain categories, but would not identify the specific liquidity profile of any individual fund. Staff from the Division of Investment Management as well as staff from the Division of Economic and Risk Analysis have also published ad hoc papers on data drawn from Form PF to help inform the public as to the staff's analyses of that data. We would anticipate a similar approach to the fund liquidity data.[47]

In addition to interim public reporting of aggregate, anonymized liquidity information, staff from the Divisions of Investment Management and Economic and Risk Analysis will conduct a review of the granular fund-specific liquidity classification data that the Commission will begin receiving on a confidential basis in June 2019.[48] The staff will provide an analysis of the data to the Commission and present to the Commission by June 2020 a recommendation addressing whether and, if so, how there should be public dissemination of fund-specific liquidity classification information.

Finally, in its 2017 Asset Management and Insurance Report, the Department of Treasury highlighted the importance of robust liquidity risk management programs, but recommended that the Commission embrace a ''principles-based approach to liquidity risk management rulemaking and any associated bucketing requirements.''[49] Today, we are proposing to modify certain aspects of our liquidity framework. We note that market participants will continue to gather insights as liquidity risk management programs are implemented, and can provide comments to the Commission as they do so. The staff will monitor the information received and report to the Commission what steps, if any, the staff recommends in light of commenter experiences.

3. Comment Request

We request comment on the proposed elimination of the aggregate liquidity profile public disclosure requirement of Form N–PORT and our proposed replacement with a requirement that funds discuss the operation and effectiveness of their liquidity risk management program as part of their annual reports to shareholders.

- Should we eliminate this public disclosure of funds' aggregate liquidity profiles? Why or why not?
- To what extent would investors have relied on a fund's aggregate liquidity profile in making investment decisions? Is it likely that this disclosure would have been informative rather than confusing to investors in making these decisions?
- If, as proposed, we were to eliminate the requirement that funds publicly disclose their aggregate liquidity profile, would investors have sufficient information about a fund's liquidity risk to make an informed investment decision?
- Should we retain the public disclosure of a fund's aggregate liquidity profile and otherwise seek to address the concerns discussed above? For example, would making the disclosure more frequent (*i.e.,* monthly), reducing the lag on public disclosure, providing funds the opportunity to publicly provide additional context and explanation on the Form or elsewhere, or other changes address the concerns discussed above? Should we permit funds to choose to make any explanatory notes related to liquidity disclosures in Part E of Form N–PORT publicly available?
- Instead of eliminating the public disclosure of a fund's aggregate liquidity profile as proposed, should we instead make the profile non-public for some additional period of time (*e.g.,* 2 to 3 years) to allow us to evaluate the quality of the information provided and its potential impact on investors?
- Should we make current Item B.8.b of Form N–PORT (highly liquid investments segregated to cover less liquid derivatives) non-public as proposed? If it was retained as public, would investors understand it without accompanying classification information? Alternatively, should we rescind the requirement entirely?
- Should we require a fund to provide a discussion of the operation and effectiveness of its liquidity risk management program, as we are proposing? Why or why not? Should we instead require disclosure about the extent to which and the manner in which the fund took liquidity risk and managed liquidity risk during the period in question and how those risks and management affected fund performance?
- As part of this proposed disclosure, should we require a fund to discuss specific elements of the fund's liquidity risk program such as the 15% illiquid investment limit, HLIM, classification process or specific liquidity risk observations? Why or why not?
- Should we require a fund to include a discussion of any relevant changes made to its liquidity risk management over the course of the reporting period?
- What additional information would be relevant to investors regarding liquidity risks that we should require funds to disclose?
- Should we require this liquidity risk disclosure to be included in the annual report? Should it instead be included in another disclosure document such as the fund's statutory prospectus, summary prospectus, or statement of additional information? If

[46] *See* Annual Staff Report Related to the Use of Form PF Data, *available at https://www.sec.gov/files/im-private-fund-annual-report-101617.pdf.*

[47] *See* Liquidity Adopting Release, *supra* footnote 2, at n.617 and accompanying text; *see also* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)] at text accompanying nn.13–15.

[48] *See* Liquidity Extension Release *supra* footnote 8.

[49] *See* A financial System That Creates Economic Opportunities; Asset Management and Insurance, U.S. Department of the Treasury, Oct. 2017 *available at https://www.treasury.gov/press-center/press-releases/Documents/A-Financial-System-That-Creates-Economic-Opportunities-Asset_Management-Insurance.pdf.*

so, under what item should it be included?

- Are there alternative approaches to providing relevant liquidity information to investors? If so, what are they, and why should we use them?
- Are there advantages to the approach that Treasury recommends? If so, what additional steps, if any, should we consider to shift toward a principles-based approach? To what extent have funds already implemented the existing liquidity classification requirement?

B. Proposed Amendments to Liquidity Reporting Requirements

We are also proposing to make certain changes to Form N–PORT related to the liquidity data reported on Form N–PORT. As discussed below, we believe these changes enhance the liquidity data reported to us. In addition, for some funds, these proposed changes may also reduce cost burdens as they comply with the rule.

1. Multiple Classification Categories

We are proposing amendments to Form N–PORT to allow funds the option of splitting a fund's holding into more than one classification category in three specified circumstances.[50] Today, Form N–PORT requires a fund to classify each holding into a single liquidity bucket. The staff has engaged in discussions with funds regarding questions that have arisen in implementing the liquidity rule and related requirements. These discussions have led us to propose these changes today.

First, some funds have explained that the requirement to classify each entire position into one classification category poses difficulties for certain holdings and may not accurately reflect the liquidity of that holding. In these cases, even though the holding may nominally be a single security, different liquidity-affecting features may justify the fund treating the holding as two or more separate investments for liquidity classification purposes (''differences in liquidity characteristics''). For example, a fund might hold an asset that includes a put option on a percentage (but not all) of the fund's holding of the asset.[51] Such a feature may significantly affect the liquidity characteristics of the portion of the asset subject to the feature, such that the fund believes that the two portions of the asset should be classified into different buckets.[52]

Second, some funds suggested that in cases of sub-advisers managing different portions or ''sleeves'' of a fund's portfolio, differences may arise between sub-advisers as to their views of the liquidity classification of a single holding that may be held in multiple sleeves. They noted it would avoid the need for costly reconciliation—and may provide useful information to the Commission on each sub-adviser's determination about the asset's liquidity—to be able to report each sub-adviser's classification of the proportional holding it manages instead of putting the entire holding into a single category.[53]

Finally, some funds indicated that for internal risk management purposes they currently classify their holdings proportionally across buckets, based on an assumed sale of the entire position (''proportionality'').[54] In such cases, they argued that allowing a fund to have the option of proportionally reporting the position on Form N–PORT would be more efficient and less costly.[55] We believe that in such cases, this form of reporting would not impair the Commission's monitoring and oversight efforts as compared to our approach of classifying based on ''sizes that the fund would reasonably anticipate trading.'' [56] Further, we believe the approach we are proposing today, which allows, but does not require, funds to use the proportionality approach in specified circumstances, would maintain the quality of the information reported to us and be potentially less costly than either our previously proposed or adopted approaches.[57]

We agree that we should permit funds to report liquidity classifications in these ways as they may equally, or more accurately, reflect their liquidity and in some cases may be less burdensome. In addition, we believe that allowing funds to proportionally report the liquidity classification of securities under the three circumstances we discussed here will enhance our monitoring efforts, as it will allow for a more precise view of the liquidity of these securities. Because funds that choose to classify across multiple categories under this approach would be required to indicate which of the three circumstances led to the split classification, we will be able to monitor more effectively the liquidity of a fund's portfolio and determine the circumstances leading to the classification. Therefore, we are proposing to amend Item C.7 of Form N–PORT to provide funds the option of splitting the classification categories reported for their investments on a percentage basis, if done for one of these

[50] *See* proposed Item C.7.b of Form N–PORT and Instructions.

[51] For example, if 30% of a holding is subject to a liquidity feature such as a put, and the other 70% is not, pursuant to the proposed Instructions to Item C.7 of Form N–PORT, a fund may split the position, evaluate the sizes it reasonably anticipates trading for each portion of the holding that is subject to the different liquidity characteristics, and classify each separate portion differently, as appropriate. The fund in such a case would use the classification process laid out in the final rule, but would apply it separately to each portion of the holding that exhibits different liquidity characteristics.

[52] As another example, a fund might have purchased a portion of an equity position through a private placement that makes those shares restricted (and therefore illiquid) while also purchasing additional shares of the same security on the open market. In that case, certain shares of the same holding may have very different liquidity characteristics depending on the specific shares being evaluated.

[53] Similar to the ''differences in liquidity characteristics'' examples discussed above, under the proposed amendments to the liquidity classification reporting on Form N–PORT the fund effectively would be treating the portions of the holding managed by different sub-advisers as if they were two separate and distinct securities, and bucketing them accordingly. *See* Instructions to Item C.7 of Form N–PORT.

[54] We initially proposed to require that funds classify each portfolio position based on the amount of time it would take to convert the entire position, or portions thereof, to cash (''proportionality approach''). *See* Open-End Fund Liquidity Risk Management Programs; Swing Pricing; Re-Opening of Comment Period for Investment Company Reporting Modernization Release, Investment Company Act Release No. 31835 (Sept. 22, 2015) [80 FR 62274 (Oct. 15, 2015)], at n.172 and accompanying text. Multiple commenters expressed concern about the proposed requirement, arguing, among other things, that a fund generally would not need to liquidate an entire large position unexpectedly. Rule 22e–4 as adopted, requires a fund, when classifying an investment, to instead determine whether trading varying portions of a position in a particular portfolio investment, in sizes that the fund would reasonably anticipate trading, is reasonably expected to significantly affect the liquidity characteristics of that investment (*i.e.,* market-depth). These market-depth considerations were adopted as a substitute for the proposed proportionality approach. *See* Liquidity Adopting Release, *supra* footnote 2, at n.439 and accompanying text.

[55] Effectively, these funds requested the option to use the position size bucketing approach that was originally proposed (analyzing the entirety of a fund's position and splitting it among buckets), rather than bucketing the entire holding into a single category based on the sizes they reasonably anticipate trading, as required under the final rule.

[56] Under the proposed Instructions to Item C.7 of Form N–PORT, a fund taking the proportionality approach would use a method similar to that described in the proposal, and split the entire holding among the four classification categories. For example, a fund holding $100 million in Asset A could determine that it would be able to convert to cash $30 million of it in 1–3 days, but could only convert the remaining $70 million to cash in 3–7 days. This fund could choose to split the liquidity classification of the holding on Form N–PORT and report an allocation of 30% of Asset A in the Highly Liquid category and 70% of Asset A in the Moderately Liquid category. Such a fund would not use sizes that it reasonably anticipates trading when engaging in this analysis, but instead would assume liquidation of the whole position.

[57] As discussed in the economic analysis below, allowing classification in multiple categories may be less costly if it better aligns with current fund systems or allows funds to avoid incurring costs related to the need to develop systems and processes to allocate each holding to exactly one classification bucket.

three reasons.[58] We are also proposing new Instructions to Item C.7 that explain the specified circumstances where a fund may split classification categories. In addition, we are proposing new Item C.7.b, which would require funds taking advantage of the option to attribute multiple classifications to a holding to note which of the three circumstances led the fund to split the classifications of the holdings.[59]

We seek comment on our proposal to allow, but not require, funds to classify a single holding in multiple categories on Form N–PORT.

- Should we allow funds to split holdings among different liquidity categories in three specified circumstances as we are proposing today?[60] Why or why not?
- Should we require funds to use a consistent approach to classification for all of their investments for purposes of Form N–PORT reporting? For example, should we require a fund that attributes multiple classifications for a holding because it uses a full liquidation analysis on one position to do so consistently for all of its positions?
- Are there circumstances other than the ones discussed in the proposed Form N–PORT Instructions to Item C.7 when funds may wish to classify the same security into multiple categories? If so, what are they and why should we permit classification splitting in those cases?
- Instead of requiring funds to note the circumstance that led them to split classification of a position on new Item C.7.b as proposed, should we instead require them to note the circumstance in the explanatory notes section of the Form? Should we not require them to note the circumstance leading to the splitting at all? Why or why not?
- Should we allow a fund using the proportionality approach to not classify the liquidity of a holding based on an assumed liquidation of the whole position, but instead classify it by evaluating different portions of the sizes it reasonably anticipates trading and bucketing the entire position accordingly?[61] Would this result in misleading or incorrect liquidity classifications?

2. Proposed Disclosure of Cash and Cash Equivalents

We are also proposing to add to Form N–PORT an additional disclosure relating to a registrant's holdings of cash and cash equivalents not reported in Parts C and D of the Form.[62] This disclosure would be made publicly available each quarter.[63] Form N–PORT currently does not require registrants to specifically report the amount of cash and cash equivalents held by the registrant. For example, as we noted in the Reporting Modernization Adopting Release, we designed Part C of Form N–PORT to require registrants to report certain information on an investment-by-investment basis about each investment held by the registrant.[64] However, cash and certain cash equivalents are not considered an investment on Form N–PORT, and therefore registrants are not required to report them in Part C of the Form as an investment. Similarly, Part B.1 of Form N–PORT (assets and liabilities) will require information about a registrant's assets and liabilities, but does not require specific disclosure of a registrant's holdings of cash and cash equivalents.[65]

Cash held by a fund is a highly liquid investment under rule 22e–4 and would have been included in the aggregate liquidity profile that we are proposing to eliminate. Without the aggregate liquidity profile, we may not be able to effectively monitor whether a fund is compliant with its HLIM unless we know the amount of cash held by the fund. The additional disclosure of cash and certain cash equivalents by funds will also provide more complete information that will be useful in analyzing a fund's HLIM, as well as trends regarding the amount of cash being held, which also correlates to other activities the fund is experiencing, including net inflows and outflows.

As a result, we are proposing to amend Item B.2. of Form N–PORT (certain assets and liabilities) to include a new Item B.2.f. which would require registrants to report ''cash and cash equivalents not reported in Parts C and D.'' Current U.S. Generally Accepted Accounting Principles (''GAAP'') define cash equivalents as ''short-term, highly liquid investments that . . . are . . . [r]eadily convertible to known amounts of cash . . . [and that are] [s]o near their maturity that they present insignificant risk of changes in value because of changes in interest rates.''[66] However, we understand that certain categories of investments currently reported on Part C of Form N–PORT (schedule of portfolio investments) could be reasonably considered by some registrants as cash equivalents. For example, Item C.4. of Form N–PORT will require registrants to identify asset type, including ''short-term investment vehicle (*e.g.,* money market fund, liquidity pool, or other cash management vehicle),'' which could reasonably be categorized by some registrants as a cash equivalent. Therefore, in order to ensure the amount reported under proposed Item B.2.f is accurate and does not double count items that are more appropriately reported in Parts C (Schedule of portfolio investments) and D (Miscellaneous securities) of Form N–PORT, we are proposing to require registrants to only include the cash and cash equivalents not reported in those sections.[67]

We seek comment on our proposal to require registrants to report cash and cash equivalents on Form N–PORT.

- Should we require registrants to report cash and cash equivalents?

[58] Proposed revisions to Item C.7 and its Instructions of Form N–PORT. Funds that choose not to take advantage of this proportional splitting approach may continue to use the approach laid out in the final rule of bucketing an entire position based on the liquidity of the sizes the fund would reasonably anticipate trading.

[59] Proposed Item C.7.b of Form N–PORT. A fund may also choose to provide (but is not required to) additional context on its process for classifying portions of the same holding differently in the explanatory notes section of Form N–PORT. *See* Part E of Form N–PORT.

[60] Proposed Instructions to Item C.7 to Form N–PORT.

[61] For example, under this alternate approach, a fund with a $100 million position in a security with a reasonably anticipated trading size of $10 million might determine that it could convert $4 million to cash in 1–3 days and $6 million in 4–7 days. The fund might then bucket $40 million as highly liquid and $60 million as moderately liquid, even though the fund has previously determined that it could only convert $4 million into cash in 1–3 days. We believe this approach would potentially result in inaccurate classifications that may not fully reflect the liquidity of a fund's investments, but has been suggested to our staff as a potential method of splitting classifications in some circumstances.

[62] *See supra* footnote 15 (noting that the term ''registrant'' refers to entities required to file Form N–PORT, including all registered management investment companies, other than money market funds and small business investment companies, and all ETFs (regardless of whether they operate as UITs or management investment companies).

[63] *See* proposed Item B.2.f. of Form N–PORT.

[64] *See* Reporting Modernization Adopting Release, *supra* footnote 2.

[65] We understand that, in addition to cash, a registrant's disclosure of total assets on Part B.1.a. could also include certain non-cash assets that are not investments of the registrant, such as receivables for portfolio investments sold, interest receivable on portfolio investments, and receivables for shares of the registrant.

[66] *See* FASB Accounting Standards Codification Master Glossary.

[67] We also are proposing other amendments to Form N–PORT. In particular, we are proposing to amend General Instruction F (Public Availability) to remove the phrase ''of this form'' from parenthetical references to Item B.7 and Part D for consistency with other parenthetical cross references in the Form. We also are proposing to amend Part F (Exhibits) to fix a typographical error in the citation to Regulation S–X. In addition, for consistency with the amendments we are proposing today and we are proposing to add Item B.8 (Derivative Transactions) to General Instruction F.

Should we require a different formulation for cash? For example, should we require registrants to report separately pledged or segregated cash?

• Should we require registrants to provide more detailed information on cash, rather than reporting cash and cash equivalents together? For example, should we require registrants to report cash separately from cash equivalents in Part C of Form N–PORT? If so, should we require cash to be reported separately for different currencies?

C. Compliance Dates

If the amendments we propose to Forms N–PORT and N–1A related to liquidity risk disclosure are adopted, we would expect to provide for a tiered set of compliance dates based on asset size.[68] Specifically, we are proposing to align the compliance date for our proposed amendments to Forms N–PORT and N–1A with the revised compliance date we previously adopted for Form N–PORT.[69] We believe that aligning the compliance date for all liquidity-related reporting requirements will allow funds to holistically implement all liquidity reporting and disclosure requirements at the same time and may make the requirements less burdensome.

We request comment on the compliance dates discussed above.

• Should we align the compliance dates for the amendments with the general compliance date for Form N–PORT? Alternatively, should we align the compliance date for the proposed amendments with the compliance date for the other liquidity-related requirements of rule 22e–4 and Form N–PORT?

• Should we provide a longer compliance period for these proposed changes? For example, should we provide an additional six months or one year beyond the compliance dates for the liquidity-related requirements of rule 22e–4 and Form N–PORT? Should we provide a different compliance period for the Form N–PORT changes and the Form N–1A changes? If so, why and how long?

III. Economic Analysis

A. Introduction

The Commission is sensitive to the potential economic effects of the proposed amendments to Form N–PORT and Form N–1A. These effects include the benefits and costs to funds, their investors and investment advisers, issuers of the portfolio securities in which funds invest, and other market participants potentially affected by fund and investor behavior as well as any effects on efficiency, competition, and capital formation.

B. Economic Baseline

The costs and benefits of the proposed amendments as well as any impact on efficiency, competition, and capital formation are considered relative to an economic baseline. For the purposes of this economic analysis, the baseline is the regulatory framework and liquidity risk management practices currently in effect, and any expected changes to liquidity risk management practices, including any systems and processes that funds have already implemented in order to comply with the liquidity rule and related requirements as adopted. The baseline also includes the economic effects anticipated in the Liquidity Adopting Release and the Liquidity Extension Release.[70]

The economic baseline's regulatory framework consists of the liquidity rule's requirements adopted by the Commission on October 13, 2016. Under the baseline, larger entities must comply with some of the liquidity rule's requirements, such as the establishment of a liquidity risk management program, by December 1, 2018 and must comply with other requirements, such as the classification of portfolio holdings, by June 1, 2019.[71] Similarly, smaller entities must comply with some of the liquidity rule's requirements by June 1, 2019 and other requirements by December 1, 2019.

The primary SEC-regulated entities affected by these proposed amendments would be mutual funds and ETFs. As of the end of 2016, there were 9,090 mutual funds managing assets of approximately $16 trillion,[72] and there were 1,716 ETFs managing assets of approximately $2.5 trillion.[73] Other potentially affected parties include investors, investment advisers that advise funds, issuers of the securities in which these funds invest, and other market participants that could be affected by fund and investor behavior.

C. Economic Impacts

We are mindful of the costs and benefits of the proposed amendments to Form N–PORT and Form N–1A. The Commission, where possible, has sought to quantify the benefits and costs, and effects on efficiency, competition and capital formation expected to result from these amendments. However, as discussed below, the Commission is unable to quantify certain of the economic effects because it lacks information necessary to provide reasonable estimates. The economic effects of the amendments fall into two categories: (1) Effects stemming from changes to public disclosure on Form N–PORT and Form N–1A; (2) effects stemming from changes to non-public disclosure on Form N–PORT.

Changes to Public Disclosure

The proposed amendments to Form N–PORT and Form N–1A alter the public disclosure of information about fund liquidity in three ways. First, the proposed amendments rescind the requirement that funds publicly disclose their aggregate liquidity profile on a quarterly basis with a 60-day delay in structured format on Form N–PORT.[74] Second, the proposed amendments require a fund to provide a narrative description of the fund's liquidity risk management program's operation and effectiveness in unstructured format on Form N–1A. Finally, the proposed amendments require funds and other

[68] ''Larger entities'' are defined as funds that, together with other investment companies in the same ''group of related investment companies,'' have net assets of $1 billion or more as of the end of the most recent fiscal year of the fund. ''Smaller entities'' are defined as funds that, together with other investment companies in the same group of related investment companies, have net assets of less than $1 billion as of the end of its most recent fiscal year. *See* Liquidity Adopting Release, *supra* footnote 2, at n.997. We adopted this tiered set of compliance dates based on asset size because we anticipated that smaller groups would benefit from this extra time to comply and from the lessons learned by larger investment companies, and we believe the same rationale applies to the changes we are proposing today. *See* Liquidity Adopting Release, *supra* footnote 2, at nn.999 and 1008 and accompanying text.

[69] *See* Investment Company Reporting Modernization, Investment Company Act Release No. 32936 (Dec. 8, 2017) [82 FR 58731 (Dec. 14, 2017)]. These compliance dates would apply to all Form N–PORT filings after the relevant date and to funds subject to these proposed requirements that file initial registration statements on Form N–1A, or that file post-effective amendments that are annual updates to effective registration statements on Form N–1A, after these proposed compliance dates.

[70] *See supra* footnotes 2 and 8.

[71] *See supra* footnote 68 for a detailed description of large and small entities. The compliance date for some of the requirements related to portfolio holding classification is being delayed. *See* the Liquidity Extension Release, *supra* footnote 8, for a more detailed discussion of the requirements that are being delayed.

[72] *See* 2017 ICI Fact Book, *available at https://www.ici.org/pdf/2017_factbook.pdf,* at 22, 170, 174. The number of mutual funds includes funds that primarily invest in other mutual funds but excludes 421 money-market funds.

[73] *See* 2017 ICI Fact Book, *available at https://www.ici.org/pdf/2017_factbook.pdf,* at 180, 181.

[74] *See supra* footnote 1 for a definition of ''funds.'' The requirement to publicly disclose aggregate liquidity profiles does not apply to funds that are In-Kind ETFs under the baseline, so it is only being proposed to be rescinded for funds that are not In-Kind ETFs. In-Kind ETFs are included as funds that would provide a narrative description of their liquidity risk management program on Form N–1A under this proposal.

registrants to report to the Commission on a non-public basis the amount of cash and cash equivalents in their portfolio on Form N–PORT on a monthly basis and to publicly disclose this amount on a quarterly basis with a 60-day delay through EDGAR.[75]

Funds and other registrants would experience benefits and costs associated with proposed changes to public disclosures on Form N–PORT. Funds[76] would no longer incur the one-time and ongoing costs associated with preparing the portion of Form N–PORT associated with the aggregate liquidity profile, which would likely constitute a small portion of the aggregate one-time costs of $158 million and the ongoing costs of $3.9 million for Form N–PORT that we estimated in the Liquidity Adopting Release.[77] At the same time, funds and other registrants would also incur additional costs, relative to the baseline, associated with the requirement that they report their holdings of cash and cash equivalents on Form N–PORT.[78] Because funds and other registrants are already preparing Form N–PORT, and already need to keep track of their cash and cash equivalents for valuation purposes, we expect that these additional costs will not be significant. In aggregate, we expect any additional costs associated with the requirement that funds and other registrants disclose their holdings of cash and cash equivalents to be offset by the savings associated with funds no longer having to report an aggregate liquidity profile. Therefore, we expect that funds and other registrants will not experience a significant net economic effect associated with the direct costs of filing Form N–PORT.[79] Additionally, to the extent that any risk of herding or correlated trading would exist if funds executed trades in order to make their aggregate liquidity profiles appear more liquid to investors, rescinding the requirement that funds publicly disclose an aggregate liquidity profile would mitigate such risk.[80]

Relative to the baseline, funds would incur costs associated with preparing an annual narrative discussion of their liquidity risk management programs on Form N–1A. We estimate that funds would incur aggregate one-time costs of approximately $18 million and aggregate ongoing costs of approximately $8.9 million in association with preparing this narrative discussion.[81]

Investors also would experience costs and benefits as a result of the proposed amendments to the public disclosure requirements on Form N–PORT and Form N–1A. To the extent that aggregate liquidity profiles on Form N–PORT would help certain investors make more informed investment choices that match their liquidity risk preferences, rescinding the aggregate liquidity profile requirement will reduce an investor's ability to make more informed investment choices. However, to the extent that aggregate liquidity profiles are not comparable across funds because portfolio holding classifications incorporate subjective factors that may be interpreted differently by different funds, rescinding the aggregate liquidity profile requirement may not reduce these investors' ability to make informed investment choices. Rather, the amendments may reduce the likelihood that investors make investment choices based on any confusion about how the fund's liquidity risk profile should be interpreted.[82] Additionally, the annual narrative discussion in Form N–1A may mitigate any reduction in their ability to make more informed investment choices, though this disclosure would be less frequent than the quarterly public disclosure of aggregate liquidity profiles as adopted and would provide information about a fund's liquidity risk management rather than the fund's aggregate liquidity profile of investments.

If certain investors prefer to base their investment decisions on information that is delivered to them directly, those investors would be more likely to use the narrative discussion of a fund's liquidity risk management program on Form N–1A than to have used the aggregate liquidity profile on Form N–PORT to inform their investment decisions. However, if certain other investors could more easily access, reuse, and compare the information about a fund's liquidity risk if included within a structured format on Form N–PORT, those investors would have a reduced ability to make as timely and accurate an analysis when that information is provided to them in the unstructured format of an annual report. To the extent that certain investors rely on third parties to provide them with information for analysis, there may be an increased burden on these third-party providers to search, aggregate and analyze the unstructured information in funds' annual reports. Finally, the proposed amendment to Form N–PORT that requires funds and other registrants to publicly disclose their holdings of cash and cash equivalents on a quarterly basis with a 60-day delay gives investors some potentially useful information about the most liquid assets that a fund previously had available to, for example, meet its redemption obligations.

Changes to Non-Public Disclosure

In addition to the proposed amendments to public disclosures of liquidity information discussed above, the proposed amendments to Form N–PORT give funds the option to split a given holding into portions that may have different liquidity classifications on their non-public reports on Form N–PORT. Funds may benefit from the proposed amendment because it gives them the option to either include an entire holding within a classification bucket or to allocate portions of the holding across classification buckets. This could benefit a fund if a more granular approach to classification that assigns portions of a portfolio holding to separate classification buckets is more consistent with the fund's preferred approach to liquidity risk management, and reduces the need for funds to develop systems and processes to allocate each holding to exactly one classification bucket.[83] In addition, to

[75] The Commission will continue to receive non-public position level liquidity information on Form N–PORT. *See supra* footnote 32.

[76] *See supra* footnote 73.

[77] *See* Liquidity Adopting Release, *supra* footnote 2, at nn.1188–1191. We estimated the total one-time costs associated with the rule's disclosure and reporting requirements on Form N–PORT as being approximately $55 million for funds that will file reports on Form N–PORT in house and approximately $103 million for funds that will use a third-party service provider. Similarly, we estimated the total ongoing annual costs as being approximately $1.6 million for funds filing reports in house and $2.3 million for funds that will use a third-party service provider.

[78] *See supra* footnote 15.

[79] *See* text following *infra* footnote 98.

[80] *See supra* footnote 35 and surrounding discussion.

[81] *See infra* footnotes 102 and 105. We estimate funds will incur an additional aggregate one-time of burden of 53,990 hours and an additional aggregate annual burden of 26,995 hours. Assuming a blended hourly rate of $329 for a compliance attorney ($345) and a senior officer ($313), that translate to an additional aggregate one-time burden of $17,7627,710 = 53,990 × $329 and an additional aggregate annual burden of $8,881,355 = 26,995 × $329.

[82] Even if aggregate liquidity profiles are not comparable across funds, they may be comparable across time for a given fund, which might provide useful information to investors. This would be the case if a fund maintains a consistent position classification process over time.

[83] For example, funds that use multiple sub-advisers to manage different sleeves of a portfolio might have to establish more complex systems and processes for combining the classifications of individual sub-advisers into a single classification for the portfolio's aggregate holding of a given

Continued

the extent that providing the option to choose the position classification method most suitable to a given fund results in disclosures on Form N–PORT that more accurately reflect the fund's liquidity profile, the proposed amendments may improve the Commission's ability to monitor liquidity risks in markets and protect investors from liquidity-related developments. However, we acknowledge that providing funds with this option does add an additional subjective decision to the portfolio holding classification process. Thus the proposed amendments could result in classification profiles that are less comparable across funds relative to the baseline.[84]

Efficiency, Competition, and Capital Formation

The proposed amendments have several potential impacts on efficiency, competition, and capital formation. First, if publicly disclosed aggregate liquidity profiles created an incentive for a fund to classify its holdings in a manner that led to a relatively more liquid aggregate liquidity profile in order to attract investors, the proposed amendments remove any such incentive and potentially reduce the likelihood that funds compete based on their aggregate liquidity profiles. To the extent that a fund or other registrant's cash and cash equivalent holdings are interpreted by investors as being associated with lower liquidity risk, funds and other registrants may still have some incentive to compete based on their holdings of cash and cash equivalents under the proposed amendments.[85] We do not expect the proposed amendments to Form N–1A to have a significant competitive effect.

Second, to the extent that publicly disclosed aggregate liquidity profiles would have helped investors more accurately evaluate fund liquidity risk and make more informed investment decisions, the proposed amendments could reduce allocative efficiency. However, to the extent that aggregate liquidity profiles on Form N–PORT would have increased the likelihood of investors making investment choices based on any confusion about a fund's liquidity risk profile, which would have harmed the efficient allocation of capital, the proposed amendments could increase allocative efficiency. The proposed annual discussion of a fund's liquidity risk management program on Form N–1A and the proposed requirement that funds and other registrants publicly disclose their holdings of cash and cash equivalents on Form N–PORT potentially mitigate this reduction in allocative efficiency, but only to the extent that these proposed requirements provide information that helps investors evaluate fund liquidity risk.

Finally, to the extent that the information provided by aggregate liquidity profiles would have promoted increased investment in certain funds, and the assets those funds invest in, rescinding the aggregate liquidity profile requirement could reduce capital formation. At the same time, we note that the new public disclosure requirements we are proposing could offset any reduction in capital formation.

In summary, we note that all of the impacts described above are conditioned upon the usefulness to investors of information that we propose to no longer require relative to the usefulness of additional proposed disclosures. We cannot estimate the aggregate effect on efficiency, competition, or capital formation that will result from the new amendments because we do not know the extent to which aggregate liquidity risk profiles, narrative discussion of a fund's liquidity risk management program, or the amount of cash and cash equivalents held by a fund and other registrants are useful to investors in making more informed investment choices.

D. Reasonable Alternatives

The Commission considered several alternatives to the proposed amendments to funds public and non-public disclosure requirements. First, in order to address any potential issues with the interpretation of a fund's aggregate liquidity profile by investors, we could have maintained the public disclosure of this profile on Form N–PORT and added a requirement that funds publicly disclose on Form N–PORT additional information providing context and clarification regarding how their aggregate liquidity profile were generated and should be interpreted. This alternative would have provided investors with some of the benefits of the additional context provided by the proposed narrative discussion on Form N–1A, and, to the extent that it increased investors' understanding of a fund's aggregate liquidity profile, could allow them to make more informed investment choices relative to the baseline. However, to the extent that some investors believe that they can more easily obtain information in a fund's annual report compared to information in the fund's N–PORT filings because annual reports are delivered directly to them, and the investors are not as interested in being able to access, reuse, and compare the information if included in a structured format on Form N–PORT, this alternative would require investors to seek out this additional information on EDGAR instead of having it delivered directly to them in an annual report. Similarly, we could have required funds to disclose an aggregate liquidity profile in their annual report along with additional information providing context and clarification regarding how its aggregate liquidity profile was generated and should be interpreted. If such disclosure increased investors' understanding of a fund's aggregate liquidity profile, this would allow them to make more informed investment choices relative to the baseline, though they would receive this information at an annual rather than quarterly frequency.

Second, instead of requiring a fund to briefly discuss the operation and effectiveness of its liquidity risk management program in the MDFP section of its annual report, we could have required a more specific discussion of the fund's exposure to liquidity risk over the preceding year, how the fund managed that risk, and how the fund's returns were affected over the preceding year. This alternative could have provided investors with a more in-depth understanding of both a fund's liquidity risk and the fund's approach to managing that risk, which might allow them to make more informed investment decisions compared to the proposed discussion of the fund's liquidity risk management program. However, we preliminarily believe that this alternative would be more costly for funds to implement than the proposed narrative discussion on Form N–1A because it might require funds to perform a more detailed analysis of their liquidity risk over the past year.

Third, we could have amended both Form N–PORT and rule 22e–4 to

security under the rule as adopted. The ability to split a portfolio holding across multiple classification buckets provides funds with a straightforward way of combining the classifications of different sub-advisers.

[84] Portfolio classifications on Form N–PORT will include CUSIPs or other identifiers that allow Commission staff to identify when different funds classify the same investment using different classification methods. However, comparing such classifications will require some method of adjustment between classifications based on, for example, reasonably anticipated trade size and those based splitting a position into proportions that are assigned to different classification buckets.

[85] However, because cash and cash equivalent holdings do not generate significant returns relative to other holdings, funds and other registrants may have an incentive to shift to non-cash or cash equivalent holdings that generate higher returns.

prescribe an objective approach to classification in which the Commission would specify more precise criteria and guidance regarding how funds should classify different categories of investments. Such an approach could permit consistent comparisons of different funds' aggregate liquidity profiles, allowing investors to make more informed investment decisions without requiring funds to provide additional contextual discussion of their liquidity risk management programs. However, as discussed in the Liquidity Adopting Release, the Commission may not be able to respond as quickly as market participants to dynamic market conditions that might necessitate changes to such criteria and guidance, and would be unable to account for determinants of investment liquidity that rule 22e–4 treats as fund-specific.[86]

Finally, we could have required that if funds chose to split the classification of any of their portfolio holdings across liquidity buckets when reporting them on the non-public portion of Form N–PORT, they do so for all of their portfolio holdings. This would have ensured that all of the portfolio holdings within a given fund could be interpreted more consistently for any monitoring purposes by the Commission. However, to the extent that being able to choose the classification approach appropriate to each portfolio holding more accurately reflects a manager's judgment of that portfolio holding's liquidity, any reduction in the consistency of portfolio classifications under the proposed amendment could be offset by a more accurate assessment of fund liquidity risk.

E. Request for Comment

We request comment on our analysis of the likely economic effects of the proposed form amendments. We also request comment on the following:

- To what extent will investors rely on the annual narrative discussion of a fund's liquidity risk management program's effectiveness in making investment decisions?
- To what extent will investors rely on the quarterly disclosure of a fund or other registrant's holdings of cash and cash equivalents in making investment decisions?
- Will investors find the new proposed public disclosures more or less informative than an aggregate liquidity profile in making investment choices? Would investors be better off if both types of disclosures were required?
- How much would it cost a fund to discuss the extent and manner in which the fund took liquidity risk, the way that risk was managed, and the effects of these on the fund's performance over the past year in the MDFP section of its annual report? Would it be more costly than the proposed narrative discussion of the fund's liquidity risk management program in its annual report? If so, how much more costly would it be? Are there other benefits of this alternative to funds, investors, and other market participants that we should consider?
- Do investors have a reason to access, reuse, or compare the narrative information? If so, would investors' ease of access and usability of the information improve if the information were provided in a structured format (*e.g.,* XML, XBRL, Inline XBRL)? If so, which structured format would be most useful and why?
- To the extent that certain investors prefer to have information about a fund's liquidity risk management delivered to them rather than having to seek out that information on EDGAR, would investors prefer that information on Form N–PORT pertaining to aggregate liquidity risk profiles be delivered to them as a separate disclosure in paper or electronic form?
- Are there any other reasonable alternative with significant economic impacts that we should consider?

IV. Paperwork Reduction Act

A. Introduction

The proposed amendments to Form N–PORT and Form N–1A contain ''collections of information'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[87]

The title for the existing collections of information are: ''Rule 30b1–9 and Form N–PORT'' (OMB Control No. 3235–0730); and ''Form N–1A under the Securities Act of 1933 and under the Investment Company Act of 1940, Registration Statement of Open-End Management Investment Companies'' (OMB Control No. 3235–0307). The Commission is submitting these collections of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Commission is proposing to amend Form N–PORT and Form N–1A. The proposed amendments are designed to improve the reporting and disclosure of liquidity information by funds. We discuss below the collection of information burdens associated with these amendments.

B. Form N–PORT

As discussed above, on October 13, 2016, the Commission adopted new Form N–PORT, which requires all registered management investment companies, other than money market funds and small business investment companies, and unit investment trusts (''UITs'') that operate as ETFs to report information about their monthly portfolio holdings to the Commission in a structured data format.[88] On the same day, the Commission adopted amendments to Form N–PORT requiring a fund to publicly report on Form N–PORT the aggregate percentage of its portfolio investments that falls into each of the four liquidity classification categories noted above.[89] Today, the Commission is proposing amendments to rescind the requirement that funds publicly disclose their aggregate liquidity profile on a quarterly basis with a 60-day delay. The Commission also is proposing to require funds and other registrants to report to the Commission on a non-public basis the amount of cash and cash equivalents in their portfolio on Form N–PORT on a monthly basis and to publicly disclose this amount on a quarterly basis with a 60 day delay.[90] Finally, the Commission is proposing to allow funds the option of splitting a fund's holding into more than one liquidity classification category in certain specified circumstances.[91] As of the end of 2016, there were 9,090 mutual funds managing assets of approximately $16 trillion, and there were 1,716 ETFs managing assets of approximately $2.5 trillion.[92] Preparing a report on Form N–PORT is mandatory and is a collection of information under the PRA, and the information required by Form N–PORT will be data-tagged in XML format.

[86] *See* Liquidity Adopting Release, *supra footnote* 2, at n.1143 and accompanying text.

[87] 44 U.S.C. 3501 through 3521.

[88] Reporting Modernization Adopting Release, *supra* footnote 2.

[89] Item B.8.a of Form N–PORT. Form N–PORT also requires public reporting of the percentage of a fund's highly liquid investments that it has segregated to cover, or pledged to satisfy margin requirements in connection with, derivatives transactions that are classified as moderately liquid, less liquid, or illiquid investments. Item B.8.b of Form N–PORT.

[90] *See supra* footnote 15 (noting that the term ''registrant'' refers to entities required to file Form N–PORT, including all registered management investment companies, other than money market funds and small business investment companies, and all ETFs (regardless of whether they operate as UITs or management investment companies).

[91] *See* Proposed Item C.7.b of Form N–PORT and Instructions.

[92] *See supra* footnote 73 and accompanying text.

Except for certain reporting items specified in the form,[93] responses to the reporting requirements will be kept confidential for reports filed with respect to the first two months of each quarter; the third month of the quarter will not be kept confidential, but made public sixty days after the quarter end.

In the Liquidity Adopting Release, we estimate that, for the 35% of funds that would file reports on Form N–PORT in house, the per fund average aggregate annual hour burden will be 144 hours per fund, and the average cost to license a third-party software solution will be $4,805 per fund per year.[94] For the remaining 65% of funds that would retain the services of a third party to prepare and file reports on Form N–PORT on the fund's behalf, we estimate that the average aggregate annual hour burden will be 125 hours per fund, and each fund will pay an average fee of $11,440 per fund per year for the services of third-party service provider. In sum, we estimate that filing liquidity-related information on Form N–PORT will impose an average total annual hour burden of 144 hours on applicable funds, and all applicable funds will incur on average, in the aggregate, external annual costs of $103,787,680, or $9,118 per fund.[95]

Today, we are proposing amendments to Form N–PORT to rescind the requirement that a fund report the aggregate percentage of the fund's portfolio representing each of the four liquidity categories. As discussed above, we are rescinding this requirement because we believe that Form N–PORT may not be the most accessible and useful way to convey to the public information about a fund's liquidity risks and the fund's approach to liquidity risk management. Because there would no longer be public disclosure of a fund's aggregate liquidity classification information, we would also re-designate reporting about the amount of a fund's highly liquid investments that are segregated or pledged to cover less liquid derivatives transactions to the non-public portion of the form. We believe that public disclosure of this information would be of limited to no utility to investors without broader context and, therefore, may be confusing. However, because we would otherwise be unable to determine the amount of a fund's highly liquid investments that is actually unavailable to meet redemptions, we believe that funds should continue to report this item to us, on a non-public basis. Finally, we are proposing other amendments to Form N–PORT to add an additional disclosure requirement relating to the fund's and other registrant's holdings of cash and cash equivalents not reported in Parts C and D of the Form[96] and to allow funds the option of splitting a fund's holding into more than one classification category in three specified circumstances.[97] We believe these additional amendments enhance, the liquidity data reported to the Commission.[98] In addition, for some funds, these proposed changes may also reduce cost burdens as they comply with the rule.

Based on Commission staff experience, we believe that our proposal to rescind the requirement that funds publicly report the aggregate classification information on Form N–PORT will reduce the estimated burden hours and costs associated with Form N–PORT by approximately one hour. We believe, however, that this reduction in cost will be offset by the increase in cost associated with the other proposed amendments to Form N–PORT, which we also estimate to be one hour. Therefore, we believe that there will be no substantive modification to the existing collection of information for Form N–PORT. As a result, the Commission believes that the current PRA burden estimates for the existing collection of information requirements remain appropriate.

C. Form N–1A

Form N–1A is the registration form used by open-end investment companies. The respondents to the amendments to Form N–1A adopted today are open-end management investment companies registered or registering with the Commission. Compliance with the disclosure requirements of Form N–1A is mandatory, and the responses to the disclosure requirements are not confidential. In our most recent Paperwork Reduction Act submission for Form N–1A, we estimated for Form N–1A a total hour burden of 1,602,751 hours, and the total annual external cost burden is $131,139,208.[99]

The Commission is proposing to amend Form N–1A to require funds to discuss certain aspects of their liquidity risk management program as part of their annual reports to shareholders. Specifically we are proposing to require a fund to discuss briefly the operation and effectiveness of the fund's liquidity risk management program in the fund's annual report to shareholders, as part of its MDFP.[100] We believe that this proposed amendment will provide effective disclosure that better informs investors of how the fund's liquidity risk and liquidity risk management practices affect their investment than the Form N–PORT public liquidity risk profile.

Form N–1A generally imposes two types of reporting burdens on investment companies: (i) The burden of preparing and filing the initial registration statement; and (ii) the burden of preparing and filing post-effective amendments to a previously effective registration statement (including post-effective amendments filed pursuant to rule 485(a) or 485(b) under the Securities Act, as applicable). We estimate that each fund would incur a one-time burden of an additional five hours,[101] to draft and finalize the required disclosure and amend its registration statement. In aggregate, we estimate that funds would incur a one-time burden of an additional 53,990 hours,[102] to comply with the proposed Form N–1A disclosure requirements. Amortizing the one-time burden over a three-year period results in an average annual burden of an additional 17,996.7 hours.[103]

Based on Commission staff expertise and experience in reviewing registration

[93] These items include information reported with respect to a fund's Highly Liquid Investment Minimum (Item B.7), derivatives transactions (Item B.8), country of risk and economic exposure (Item C.5.b), delta (Items C.9.f.v, C.11.c.vii, or C.11.g.iv), liquidity classification for portfolio investments (Item C.7), or miscellaneous securities (Part D), or explanatory notes related to any of those topics (Part E) that is identifiable to any particular fund or adviser. *See* Proposed General Instruction F of Form N–PORT.

[94] *See* Liquidity Adopting Release, *supra* footnote 2, at n.1237 and accompanying text.

[95] *See* Liquidity Adopting Release, *supra* footnote 2, at n.1238 and accompanying text.

[96] *See* proposed Item B.2.f. of Form N–PORT.

[97] *See* proposed Instructions to Form N–PORT Item C.7.

[98] *See* Liquidity Adopting Release, *supra* footnote 2, at n.293 and accompanying text (discussing the Commission's need for the information reported on Form N–PORT).

[99] This estimate is based on the last time the rule's information collection was submitted for PRA renewal in 2018.

[100] Proposed Item 27(b)(7)(iii) of Form N–1A.

[101] This estimate is based on the following calculation: 5 hours (3 hours for the compliance attorney to consult with the liquidity risk management program administrator and other investment personnel in order to produce an initial draft of the MDFP disclosure + 2 hours for senior officers to familiarize themselves with the new disclosure and certify the annual report). These calculations stem from the Commission's understanding of the time it takes to draft and review MDFP disclosure and to update a fund's registration statement.

[102] This estimate is based on the following calculations: 5 hours × 10,798 open-end funds (excluding money market funds and ETFs organized as UITs, and including ETFs that are management investment companies) = 53,990 hours.

[103] This estimate is based on the following calculation: 53,990 hours ÷ 3 = 17,996.7 average annual burden hours.

statements, we estimate that each fund would incur an ongoing burden of an additional 2.5 hours each year to review and update the required disclosure and amend its registration statement.[104] In aggregate, we estimate that funds would incur an annual burden of an additional 26,995 hours,[105] to comply with the proposed Form N–1A disclosure requirements.

Amortizing these one-time and ongoing hour and cost burdens over three years results in an average annual increased burden of approximately 3.3 hours per fund.[106]

In total, we estimate that funds would incur an average annual increased burden of approximately 44,991.7 hours,[107] to comply with the proposed Form N–1A disclosure requirements.

D. Request for Comments

We request comment on whether our estimates for burden hours and any external costs as described above are reasonable. Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments in order to: (i) Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (ii) evaluate the accuracy of the Commission's estimate of the burden of the proposed collections of information; (iii) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) determine whether there are ways to minimize the burden of the collections of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

The agency is submitting the proposed collections of information to OMB for approval. Persons wishing to submit comments on the collection of information requirements of the proposed amendments should direct them to the Office of Management and Budget, Attention Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File No. S7–04–18. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release; therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days after publication of this release. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7–04–18, and be submitted to the Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

V. Initial Regulatory Flexibility Analysis

The Commission has prepared the following Initial Regulatory Flexibility Analysis in accordance with section 3(a) of the Regulatory Flexibility Act (''RFA'').[108] It relates to proposed amendments to Form N–PORT and proposed amendments to Form N–1A.

A. Reasons for and Objectives of the Proposed Actions

The Commission adopted rule 22e–4 and related rule and form amendments to enhance the regulatory framework for liquidity risk management of funds.[109] In connection with rule 22e–4, a fund is required to publicly report on Form N–PORT the aggregate percentage of its portfolio investments that falls into each of the liquidity categories enumerated in rule 22e–4. This requirement was designed to enhance public disclosure regarding fund liquidity and redemption practices. However, since we adopted these requirements, we have received letters raising concerns that the public disclosure of a fund's aggregate liquidity classification information on Form N–PORT may not achieve our intended purpose and may confuse and mislead investors. As we discuss further in section II.A above, these letters have led us to believe that the approach of disclosing liquidity information to the public through Form N–PORT may not be the most accessible and useful way to convey fund liquidity information to the public, given that only the Commission, and not the public, would have access to the more granular information and can request information regarding the fund's methodologies and assumptions that would provide needed context to understand this reporting.[110]

B. Legal Basis

The Commission is proposing amendments to Form N–1A and Form N–PORT under the authority set forth in the Securities Act, particularly section 19 thereof [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly sections 10, 13, 15, and 23, and 35A thereof [15 U.S.C. 78a *et seq.*], and the Investment Company Act, particularly, sections 8, 30, and 38 thereof [15 U.S.C. 80a *et seq.*].

C. Small Entities Subject to the Proposed Liquidity Regulations

An investment company is a small entity if, together with other investment companies in the same group of related investment companies, it has net assets of $50 million or less as of the end of its most recent fiscal year.[111] Commission staff estimates that, as of June 31, 2017, there were 64 open-end investment companies (within 60 fund complexes) that would be considered small entities. This number includes open-end ETFs.[112]

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

We are proposing amendments to Form N–1A and Form N–PORT to enhance fund disclosure regarding a fund's liquidity risk management practices. Specifically, the proposed amendments to Form N–PORT [113] would rescind the requirement that funds publicly disclose aggregate liquidity classification information about their portfolios and proposed amendments to Form N–1A would require funds to discuss certain aspects of their liquidity risk management program as part of their annual reports to shareholders.[114] In addition, we are proposing amendments to Form N–PORT to allow funds to report multiple classification categories for a single

[104] This estimate is based on the following calculation: 2.5 hours (2 hours for the compliance attorney to consult with the liquidity risk management program administrator and other investment personnel in order to produce an initial draft of the MDFP disclosure + .5 hours for senior officers to certify the annual report). These calculations stem from the Commission staff's understanding of the time it takes to review MDFP disclosure and to update a fund's registration statement.

[105] This estimate is based on the following calculation: 2.5 hours × 10,798 open-end funds (excluding money market funds and ETFs organized as UITs, and including ETFs that are management investment companies) = 26,995 hours.

[106] This estimate is based on the following calculation: 5 burden hours (year 1) + 2.5 burden hours (year 2) + 2.5 burden hours (year 3) ÷ 3 = 3.3.

[107] This estimate is based on the following calculation: 17,996.7 hours + 26,995 hours = 44,991.7 hours.

[108] 5 U.S.C. 603(a).

[109] *See supra* section I.

[110] *See supra* section II.A.1 at text following footnote 18.

[111] *See* rule 0–10(a) under the Investment Company Act.

[112] This estimate is derived from an analysis of data obtained from Morningstar Direct as well as data reported on Form N–SAR filed with the Commission for the period ending June 30, 2017.

[113] *See* proposed amendments to Item B.8 of Form N–PORT.

[114] *See* proposed amendments to Item 27(b)(7)(iii) of Form N–1A.

position in certain cases [115] and require funds and other registrants to report their holdings of cash and cash equivalents.[116]

All funds would be subject to the proposed disclosure and reporting requirements, including funds that are small entities. We estimate that 64 funds (comprising 60 fund complexes) are small entities that would be required to comply with the proposed disclosure and reporting requirements. As discussed above, we do not believe that our proposed amendments will change Form N–PORT's estimated burden hours and costs.[117] We estimate that each fund would incur a one-time burden of an additional five hours,[118] each year to draft and finalize the required Form N–1A disclosure and amend its registration statement. For purposes of this analysis, Commission staff estimates, based on outreach conducted with a variety of funds, that small fund groups will incur approximately the same initial and ongoing costs as large fund groups. Therefore, in the aggregate, we estimate that funds that are small entities would incur a one-time burden of an additional 320 hours,[119] to comply with the proposed Form N–1A disclosure requirements. Amortizing the one-time burden over a three-year period results in an average annual burden of an additional 106.7 hours.[120] We estimate that each fund would incur an ongoing burden of an additional 2.5 hours each year to review and update the required Form N–1A disclosure and amend its registration statement.[121] Therefore, we estimate that funds that are small entities will incur an ongoing burden of an additional 160 hours to comply with the proposed Form N–1A disclosure requirements.[122]

Amortizing these one-time and ongoing hour and cost burdens over three years results in an average annual increased burden of approximately 4.2 hours per fund.[123] In total, we estimate that funds that are small entities would incur an average annual increased burden of approximately 266.7 hours, to comply with the proposed Form N–1A disclosure requirements.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any federal rules that duplicate, overlap, or conflict with the proposed liquidity regulations.

F. Significant Alternatives

The RFA directs the Commission to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant economic impact on small entities. We considered the following alternatives for small entities in relation to the proposed liquidity disclosure requirements: (i) Exempting funds that are small entities from the proposed disclosure requirements on Form N–1A, or establishing different disclosure or reporting requirements, or different disclosure frequency, to account for resources available to small entities; (ii) clarifying, consolidating, or simplifying the compliance requirements under the amendments for small entities; (iii) using performance rather than design standards; and (iv) exempting funds that are small entities from other proposed amendments to Form N–PORT.

We do not believe that exempting any subset of funds, including funds that are small entities, from the proposed amendments would permit us to achieve our stated objectives. Nor do we believe that clarifying, consolidating or simplifying the proposed amendments for small entities would satisfy those objectives. In particular, we do not believe that the interest of investors would be served by these alternatives. We believe that all fund investors, including investors in funds that are small entities, would benefit from accessible and useful disclosure about liquidity risk, with appropriate context, so that investors may understand its nature and relevance to their investments.[124] We also believe that all fund investors would benefit from the other proposed amendments to Form N–PORT that would preserve, and in some cases enhance, the liquidity data reported to the Commission by allowing funds to more accurately reflect their liquidity.[125] We note that the current disclosure requirements for reports on Forms N–1A and N–PORT do not distinguish between small entities and other funds. Finally, we determined to use performance rather than design standards for all funds, regardless of size, because we believe that providing funds with the flexibility to determine how to design their MDFP disclosures allows them the opportunity to tailor their disclosure to their specific risk profile. By contrast, we determined to use design standards for our proposed amendments to Form N–PORT because we believe information reported to the Commission on the Form must be uniform to the extent practicable in order for the Commission to carry out its oversight and monitoring responsibilities.

G. General Request for Comment

The Commission requests comments regarding this analysis. We request comment on the number of small entities that would be subject to the proposed form amendments and whether the proposed form amendments would have any effects on small entities that have not been discussed. We request that commenters describe the nature of any effects on small entities subject to the proposed form amendments and provide empirical data to support the nature and extent of such effects. We also request comment on the estimated compliance burdens of the proposed form amendments and how they would affect small entities.

VI. Consideration of Impact on the Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [126] we must advise OMB whether a proposed regulation constitutes a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results in or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers or individual industries; or

[115] *See* proposed Item C.7.b of Form N–PORT and Instructions.

[116] *See* proposed Item B.2.f. of Form N–PORT.

[117] *See supra* text accompanying footnote 79.

[118] *See supra* footnote 101 (noting that this estimate is based on the Commission staff's understanding of the time it takes to draft and review MDFP disclosure and to update a fund's registration statement, including the time it takes for the compliance attorney to consult with the liquidity risk management program administrator and other investment personnel in order to produce an initial draft of the MDFP disclosure as well as the time it takes for senior officers to familiarize themselves with the new disclosure and certify the annual report).

[119] This estimate is based on the following calculations: 5 hours × 64 = 320 hours.

[120] This estimate is based on the following calculation: 320 hours ÷ 3 = 106.7 average annual burden hours.

[121] *See supra* footnote 104 and accompanying text (noting that this estimate is based on the Commission staff's understanding of the time it takes to review MDFP disclosure and to update a fund's registration statement, including the time it takes for the compliance attorney to consult with the liquidity risk management program administrator and other investment personnel in order to produce an initial draft of the MDFP disclosure as well as the time it takes for senior officers to certify the annual report).

[122] This estimate is based on the following calculations: 2.5 hours × 64 = 160 hours.

[123] This estimate is based on the following calculations: (160 hours + 106.7 hours) ÷ 64 funds = 4.2 hours.

[124] *See supra* text accompanying footnote 96.

[125] *See supra* section IV.B at text accompanying footnote 98.

[126] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

(3) significant adverse effects on competition, investment or innovation.

We request comment on the potential impact of the proposed amendments on the potential effect on the economy on an annual basis; any potential increase in costs or prices for consumers or individual industries; and any potential effect on competition, investment, or innovation.

Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

VII. Statutory Authority

The Commission is proposing amendments to Form N–1A and Form N–PORT under the authority set forth in the Securities Act, particularly section 19 thereof [15 U.S.C. 77a *et seq.*], the Exchange Act, particularly sections 10, 13, 15, and 23, and 35A thereof [15 U.S.C. 78a *et seq.*], and the Investment Company Act, particularly, sections 8, 30 and 38 thereof [15 U.S.C. 80a *et seq.*].

List of Subjects in 17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

Text of Rules and Forms

For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

■ 1. The authority citation for part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, 80a–29, and Pub. L. 111–203, sec 939A, 124 Stat. 1376 (2010), unless otherwise noted.

* * * * *

■ 2. Amend Form N–1A (referenced in 274.11A) by:

■ a. In Item 27 adding new paragraph (b)(7)(iii).

The addition reads as follows:

Note: The text of Form N–1A does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–1A

* * * * *

Item 27. Financial Statements

(a) * * *

(b) * * *

(7) *Management's Discussion of Fund Performance.*

* * * * *

(iii) Briefly discuss the operation and effectiveness of the Fund's liquidity risk management program during the most recently completed fiscal year.

* * * * *

■ 3. Amend Form N–PORT (referenced in § 274.150) by:

■ a. In the General Instructions, revising the second paragraph of F. Public Availability;

■ b. In Part B, amending Item B.2 by adding Item B.2.f;

■ c. In Part B, revising Item B.8;

■ d. In Part C, revising Item C.7; and

■ e. Revising Part F.

The revisions read as follows:

Note: The text of Form N–PORT does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–Port—Monthly Portfolio Investments Report

* * * * *

F. Public Availability

* * * * *

The SEC does not intend to make public the information reported on Form N–PORT for the first and second months of each Fund's fiscal quarter that is identifiable to any particular fund or adviser, or any information reported with respect to a Fund's Highly Liquid Investment Minimum (Item B.7), Derivatives Transactions (Item B.8), country of risk and economic exposure (Item C.5.b), delta (Items C.9.f.v, C.11.c.vii, or C.11.g.iv), liquidity classification for portfolio investments (Item C.7), or miscellaneous securities (Part D), or explanatory notes related to any of those topics (Part E) that is identifiable to any particular fund or adviser. However, the SEC may use information reported on this Form in its regulatory programs, including examinations, investigations, and enforcement actions.

* * * * *

Part B: Information About the Fund

* * * * *

Item B.2.f Cash and cash equivalents not reported in Parts C and D.

* * * * *

Item B.8 Derivatives Transactions. For portfolio investments of open-end management investment companies, provide the percentage of the Fund's Highly Liquid Investments that it has segregated to cover or pledged to satisfy margin requirements in connection with derivatives transactions that are classified among the following categories as specified in rule 22e–4 [17 CFR 270.22e–4]:

1. Moderately Liquid Investments
2. Less Liquid Investments
3. Illiquid Investments

* * * * *

Part C: Schedule of Portfolio Investments

* * * * *

Item C.7.a Liquidity classification information.

For portfolio investments of open-end management investment companies, provide the liquidity classification(s) for each portfolio investment among the following categories as specified in rule 22e–4 [17 CFR 270.22e–4]. For portfolio investments with multiple liquidity classifications, indicate the percentage amount attributable to each classification.

i. Highly Liquid Investments

ii. Moderately Liquid Investments

iii. Less Liquid Investments

iv. Illiquid Investments

Item C.7.b If attributing multiple classification categories to the holding, indicate which of the three circumstances listed in the Instructions to Item C.7 is applicable.

Instructions to Item C. 7 Funds may choose to indicate the percentage amount of a holding attributable to multiple classification categories only in the following circumstances: (1) If a fund has multiple sub-advisers with differing liquidity views; (2) if portions of the position have differing liquidity features that justify treating the portions separately; or (3) if the fund chooses to classify the position through evaluation of how long it would take to liquidate the entire position (rather than basing it on the sizes it would reasonably anticipated trading). In (1) and (2), a fund would classify using the reasonably anticipated trade size for each portion of the position.

* * * * *

Part F: Exhibits

For reports filed for the end of the first and third quarters of the Fund's fiscal year, attach no later than 60 days after the end of the reporting period the Fund's complete portfolio holdings as of the close of the period covered by the report. These portfolio holdings must be presented in accordance with the schedules set forth in §§ 210.12–12—210.12–14 of Regulation S–X [17 CFR 210.12–12—210.12–14].

* * * * *

By the Commission.

Dated: March 14, 2018

Brent J. Fields,

Secretary.

[FR Doc. 2018–05511 Filed 3–16–18; 8:45 a.m.]

BILLING CODE P

MILLENNIUM CHALLENGE CORPORATION

22 CFR Part 1304

Freedom of Information Act Regulations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The purpose of this document is to outline the procedures by which the Millennium Challenge Corporation proposes to implement the relevant provisions of the Freedom of Information Act as required under that statute. This document will assist interested parties in obtaining access to Millennium Challenge Corporation public records.

DATES: Send comments on or before April 18, 2018.

ADDRESSES: Send comments to Tamiko NW Watkins, Chief FOIA Officer, Office of the General Counsel, Millennium Challenge Corporation, 1099 Fourteenth Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Tamiko NW Watkins, Chief FOIA Officer, 202.521.3730.

SUPPLEMENTARY INFORMATION: The Millennium Challenge Act (MCA) of 2003 established a new federal agency called the Millennium Challenge Corporation. Congress enacted the Freedom of Information Act (FOIA) in 1966 and last modified it with the FOIA Improvement Act of 2016. This proposed rule addresses electronically available documents, procedures for making requests, agency handling of requests, records not disclosed, changes in fees, and public reading rooms, as well as, other related provisions.

Lists of Subjects in 22 CFR Part 1304

Freedom of Information Act procedures.

■ For the reasons set forth in the preamble, the Millennium Challenge Corporation proposes to amend chapter XIII of title 22 by revising part 1304 to read as follows:

PART 1304—PRODUCTION OR DISCLOSURE OF INFORMATION

Subpart A—Procedures for Requests for Disclosure of Records Under the Freedom of Information Act

Sec.

1304.1 General provisions.
1304.2 Definitions.
1304.3 Proactive disclosure of MCC records.
1304.4 Requirements for making requests.
1304.5 Responsibility for acknowledgment and initial determinations.
1304.6 Timing of responses to requests.
1304.7 Responses to requests.
1304.8 Confidential commercial information.
1304.9 Administrative appeals.
1304.10 Preservation of records.
1304.11 Fees.
1304.12 Other rights and services.

Subpart B—[Reserved]

Authority: 5 U.S.C. 552, as amended.

Subpart A—Procedures for Requests for Disclosure of Records Under the Freedom of Information Act

§ 1304.1 General provisions.

This part contains the rules that the Millennium Challenge Corporation (''MCC'') follows in processing requests for records under the Freedom of Information Act (''FOIA'') (5 U.S.C. 552). The rules in this part should be read in conjunction with the text of the FOIA and the Uniform Freedom of Information Act Fee Schedule and Guidelines published by the Office of Management and Budget (''OMB Fee Guidelines''). In addition, the MCC FOIA web page contains information about the specific procedures particular to MCC with respect to making FOIA requests. This resource is available at *www.mcc.gov/resources/foia.* Requests may be made by individuals about themselves under the Privacy Act of 1974, 5 U.S.C. 552(a).

§ 1304.2 Definitions.

Administrative appeal. An independent review of the initial determination made in response to a FOIA request.

Agency. Any executive department, military department, government corporation, government controlled corporation, or other establishment in the executive branch of the Federal Government or any independent regulatory agency.

Business day or work day. A day of the week, excluding Saturday, Sunday, or legal public holidays.

Calendar days. Every day within a month, including Saturday, Sunday, and legal public holidays. Unless identified as a ''business day'' or ''work day,'' all timeframes and days noted in this part shall be calculated in calendar days.

Chief FOIA Officer. The MCC employee who is authorized to make determinations regarding the release of records requested under the FOIA.

Commercial requester. Any person making a request for information for a use or purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation.

Complex request. A FOIA request that MCC anticipates will involve a voluminous amount of material to review or will be time-consuming to process.

Confidential commercial information. Records provided to the government that contain material exempt from disclosure under Exemption 4 of the FOIA and disclosure of such records could reasonably be expected to cause substantial competitive harm.

Consultation. When MCC locates a record that contains information of interest to another agency, MCC shall ask the interested agency for their views on disclosing the records before any final determination is made.

Direct costs. Expenditures actually incurred by MCC for searching, duplicating, and in the case of commercial use requests, reviewing records in order to respond to a FOIA request.

Discretionary disclosure. The release of or portions of records to a FOIA requester that could be withheld by MCC under one or more of the FOIA exemptions.

Duplication. The process of making a copy of a record in order to respond to a FOIA request, including but not limited to paper copies, microfilm, audio-video materials, and computer diskettes or other electronic copies.

Duplication fees. The estimated direct costs of making a copy of a record in order to respond to a FOIA request.

Educational institution. Any school or institution that operates a program of scholarly research. A requester in this category must show that the request is made in connection with his or her role at the educational institution.

Educational requester. Any person making a FOIA request authorized by, and made under the auspices of, a qualifying institution, and that the records are not sought to further scholarly research. Records requested for the intention of fulfilling credit requirements at an educational institution are not considered to be sought for a scholarly purpose.

Exemptions. Certain categories of information that are not required to be released in response to a FOIA request because release would be harmful to governmental or private interests.

FOIA Appeals Officer. The MCC employee who is responsible for conducting an independent review of the initial determination of the FOIA request after the requester has requested an administrative appeal.

FOIA Public Liaison. The MCC employee who is responsible for assisting in the resolution of disputes in response to FOIA requests.

FOIA Program Officer. The MCC employee who receives and processes requests within the MCC FOIA Office.

Non-commercial scientific institution. An institution that does not operate on a commercial basis, but operates solely for the purpose of conducting scientific research and the results of the scientific research are not intended to promote any particular product or industry.

Record. Any item, collection, or grouping of information maintained by MCC in any form or format, including an electronic copy. A ''record'' can potentially constitute an entire document, a single page of a multipage document, an individual paragraph of a document, or an email within an email chain.

Referral. When an agency locates a record that originated with, or is of otherwise primary interest to another agency, it will forward that record to the other agency to process the record and to provide the final determination directly to the requester.

Representative of the news media. Any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term ''news'' means information that is about current events or that would be of interest to the public. To qualify for this category, the requester must not be seeking the requested records for commercial use.

Requester. Any person, corporation, firm, organization, or other entity who makes a request for records pursuant to the FOIA.

Review. The process of examining a record to determine whether all or part of the record may be released or withheld, and includes redacting or otherwise processing the record for disclosure to a requester. The review process does not include time spent resolving legal or policy issues regarding the application of exemptions to a record. The review process also does not include time spent reviewing records at the administrative appeal level unless, MCC determines that the exemption under which it withheld records does not apply and the records are reviewed again to determine whether a different exemption may apply.

Search. The time spent locating records that may be responsive to a request, manually or by electronic means, including page-by-page or line-by-line identification of responsive material within a record.

Search fees. Estimated direct costs of the time spent locating records by either manual or electronic means.

Submitter. Any person or entity who provides information directly or indirectly to MCC. The term includes, but is not limited to, corporations, state governments, and foreign governments.

§ 1304.3 Proactive disclosure of MCC records.

Records that are required by the FOIA to be made available for public inspection in an electronic format may be accessed through the MCC website. MCC is responsible for determining which of its records are required to be made publicly available, identifying additional records in the interest of the public that are appropriate for public disclosure, and posting such records. MCC shall ensure that its website of posted records is reviewed and updated on an ongoing basis. The FOIA Program Officer may assist individuals in locating records on the MCC website and FOIA reading room.

§ 1304.4 Requirements for making requests.

(a) Requests for access to, or copies of, MCC records other than those identified in § 1304.3, shall be in writing and addressed to the MCC Chief FOIA Officer at 1099 14th St. NW, Washington, DC 20005 or *FOIA@mcc.gov.* All requests for records shall be deemed to have been made pursuant to the FOIA, regardless of whether the request specifically mentions the Freedom of Information Act. To facilitate processing, the requester should place the phrase ''FOIA REQUEST'' in capital letters on the front of the envelope or subject line of the email.

(b) Each request shall include the following:

(1) A description of the record(s) that provides sufficient detail to enable MCC to locate the record(s) with a reasonable amount of effort; such as the date, title or name, author, recipient, subject matter of the record, case number, file designation, or reference number. Before submitting their requests, requesters may contact the MCC FOIA Program Officer to discuss the records the are seeking and receive assistance in describing the records;

(2) The preferred format of the records;

(3) A statement that the request for records is made pursuant to the FOIA;

(4) The requestor's full name, mailing address or email address, and telephone number where the requester can be reached during business hours; and

(5) If applicable, the maximum amount the requester is willing to pay or dollar limit on the fees MCC may incur to respond to the request for records. When this information is specified, MCC shall not exceed such limit.

(c) If a request does not meet all of the requirements of paragraph (b) of this section, the FOIA Program Officer may advise the requester that additional information is needed. Requesters who are attempting to reformulate or modify a request may engage with the MCC Program Officer to clarify their request.

§ 1304.5 Responsibility for acknowledgment and initial determinations.

(a) Upon receipt of a request for records, the FOIA Program Officer will acknowledge receipt of the request in writing within ten (10) business days. In responding to a request for records, MCC shall make reasonable efforts to search for the records in electronic format, except when such efforts would significantly interfere with the operation of the agency's automated information system.

(b) The Chief FOIA Officer shall make an initial determination, within twenty (20) business days, to either grant or deny, in whole or in part, a request for records. If the Chief FOIA Officer shall notify the requester making such a request of the following information:

(1) The determination whether grant or deny the request and reasons for the determination;

(2) The right of the requester to seek assistance from the FOIA Public Liaison; and in the case of an adverse determination;

(3) The right of the requester to seek dispute resolution services via the Office of Government Information Services of the National Archives and Records Administration (OGIS); and

(4) The right to file an administrative appeal to the FOIA Appeals Officer within 90 calendar days after the date of the adverse determination.

§ 1304.6 Timing of responses to requests.

(a) *General information.* The twenty (20) business day period identified in § 1304.5(b) shall commence on the date that the request is first received by the MCC FOIA office and an acknowledgment of the request shall be sent no later than ten (10) business days after receipt of the request. The twenty (20) business day period shall not be tolled except that MCC may make one request to the requester for information and toll the twenty (20) business day period while it is awaiting receipt of the information, or the twenty (20) business day period may be tolled if it is necessary to clarify issues regarding fees with the requester.

(b) *Unusual circumstances.* If MCC cannot meet the statutory time limit for processing a request because of ''unusual circumstances'' as defined in the FOIA and MCC extends the time

limit on that basis, MCC will, before expiration of the twenty (20) business day period, notify the requester in writing of the unusual circumstances involved and of the date by which MCC estimates processing of the request will be completed. Where the extension exceeds ten (10) business days, MCC will provide the requester with an opportunity to modify the request or arrange an alternative time period for processing the original or modified request. MCC must make its designated FOIA Program Officer or FOIA Public Liaison available for this purpose. To aid the requester, the MCC FOIA Public Liaison shall assist in the resolution of any disputes between the requester and MCC, and notify the requester of the right to seek dispute resolution services from the Office of Government Information Services. Refusal by the requester to modify the request or arrange for an alternative time frame shall be factors in considering whether unusual circumstances exist.

(c) *Aggregating requests.* MCC may aggregate requests where it reasonably appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. Requests that involve unrelated matters shall not be aggregated.

(d) *Multitrack processing.* MCC may use multitrack processing in responding to requests. This process entails separating simple requests that require rather limited review from more lengthy and complex requests. Requests in each track are then processed in their respective track. The FOIA Program Officer may provide requesters in the slower track an opportunity to limit the scope of their requests in order to decrease the processing time required. The FOIA Program Officer may provide the opportunity to limit the scope of the request by contacting the requester by letter, email, or telephone.

(e) *Expedited processing of requests.* The FOIA Program Officer must determine whether to grant a request for expedited processing within ten (10) calendar days of its receipt. Requests will receive expedited processing if one of the following criteria are met:

(1) The requester can establish that failure to receive the records quickly could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(2) The requester is primarily engaged in disseminating information and can demonstrate that an urgency to inform the public concerning actual or alleged federal government activity exists; or

(3) As determined by the Chief FOIA Officer.

(f) *Written expedited requests.* A requester who seeks expedited processing must submit a written statement explaining in detail the basis for making the request for expedited processing. This statement must be certified to be true and correct. The MCC Chief FOIA Officer may waive the formal certification requirement.

§ 1304.7 Responses to requests.

(a) *General information.* MCC, to the extent practicable, will communicate with requesters who have access to the internet via email or web portal.

(b) *Acknowledgment of requests.* MCC shall acknowledge the request in writing and assign a tracking number for processing purposes.

(c) *Estimated dates of completion and interim responses.* Upon request, MCC shall provide an estimated response date. If a request involves a voluminous amount of material or searches in multiple locations, MCC shall provide interim responses by releasing the records on a rolling basis.

(d) *Granting requests.* MCC will notify the requestor in writing if it determines that it will grant a request in full or in part. MCC shall inform the requester of any fees charged and shall disclose the requested records to the requester promptly upon payment of any applicable fees.

(e) *Partial grant of requests.* MCC shall consider whether partial disclosure of information is possible whenever the agency determines that a full disclosure of a requested record is not possible. MCC shall take reasonable steps necessary to segregate and release nonexempt information.

(f) *Denial or adverse determination of requests.* Except as otherwise provided in this part, MCC shall withhold information only if—

(1) It reasonably foresees that disclosure would harm an interest protected by an exemption under the FOIA or disclosure is prohibited by law;

(2) The request does not reasonably describe the records sought;

(3) The information sought is not a record subject to the FOIA;

(4) The information sought does not exist, cannot be located, or has been destroyed; or

(5) The records are not in the readily producible form or format sought by the requester.

(g) *Markings on released documents.* Records disclosed in part shall be marked clearly to show the amount of information deleted and the exemption under which the deletion was made unless doing so would harm an interest protected by an applicable exemption.

§ 1304.8 Confidential commercial information.

(a) *Designation of confidential commercial information.* A submitter of confidential commercial information must use good faith efforts to designate by appropriate markings, either at the time of the submission or within a reasonable time thereafter, any portion of its submission that it considers to be protected from disclosure under Exemption 4 of the FOIA. These designations shall expire ten (10) years after the date of submission unless the submitter requests and provides justification for a longer designation period.

(b) *Required notice.* Written notice shall be provided to a submitter of confidential commercial information whenever records containing such information are requested under the FOIA if, after reviewing the request, the responsive records, and any appeal by the requester, it is determined that MCC may be required to disclose the records, provided:

(1) The requested information has been designated in good faith by the submitter as information considered protected from disclosure under Exemption 4 of the FOIA; or

(2) MCC has reason to believe that the requested information may be protected from disclosure under Exemption 4 of the FOIA, but has not yet determined whether the information is protected from disclosure under that exemption or any other applicable exemption.

(c) *Information.* The notices shall either describe the commercial information requested or include a copy of the requested records or portions of records containing information. In cases involving a voluminous number of submitters, notice may be made by posting or publishing the notice in a place or manner reasonably likely to accomplish it.

(d) *Exceptions to notice requirements.* The notices requirements of this section shall not apply if:

(1) The Chief FOIA Officer determines that the information is exempt under the FOIA;

(2) The information has been lawfully published or has officially been made available to the public;

(3) Disclosure of the information is required by a statute other than the FOIA or by a regulation issued in accordance with the requirements of Executive Order 12600 of June 23, 1987; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous, except that, in such a case, the component shall give the submitter

written notice of any final decision to disclose the information and must provide that notice within a reasonable number of days prior to the disclosure date.

(e) *Opportunity to object to disclosure.* A submitter may provide the Chief FOIA Officer with a detailed written statement of any objection to disclosure within ten (10) days of notification. The statement shall specify all grounds for withholding any of the information under any exemption of the FOIA, and if Exemption 4 applies, shall demonstrate the reasons the submitter believes the information to be confidential commercial information that is exempt from disclosure. Whenever possible, the submitter's claim of confidentiality shall be supported by a statement or certification by an officer or authorized representative of the submitter. In the event a submitter fails to respond to the notice in the time specified, the submitter will be considered to have no objection to the disclosure of the information. Information provided by the submitter that is received after the disclosure decision has been made will not be considered. Information provided by a submitter pursuant to this paragraph may itself be subject to disclosure under the FOIA.

(f) *Notice of intent to disclose.* The Chief FOIA Officer shall consider a submitter's objections and specific grounds for nondisclosure prior to determining whether to disclose the information requested. Whenever the Chief FOIA Officer determines that disclosure is appropriate, the Chief FOIA Officer shall, within a reasonable number of days prior to disclosure, provide the submitter with written notice of the intent to disclose which shall include a statement of the reasons for which the submitter's objections were overruled, a description of the information to be disclosed, and a specific disclosure date. The Chief FOIA Officer shall also notify the requester that the requested records will be made available.

(g) *Notice of lawsuit.* If the requester files a lawsuit seeking to compel disclosure of confidential commercial information, MCC shall promptly notify the submitter of this action. If a submitter files a lawsuit seeking to prevent disclosure of confidential commercial information, MCC shall promptly notify the requester.

§ 1304.9 Administrative appeals.

(a) *Requirements for appealing an adverse determination.* A requester may appeal any adverse determination to MCC. The requester must submit a written notice of appeal and it must be postmarked or, in the case of electronic submissions, transmitted within ninety (90) calendar days after the date of the response. The appeal should clearly identify the determination that is being appealed and the assigned tracking number. To facilitate handling, the requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, ''Freedom of Information Act Appeal.''

(b) *Appeals address.* Requesters can submit appeals by mail by addressing it to Millennium Challenge Corporation, Attn.: FOIA Appeals Officer, 1099 14th St. NW, Washington, DC 20005 or online at *FOIA@mcc.gov.*

(c) *Adjudication of appeals.* The MCC FOIA Appeals Officer will adjudicate the appeal within twenty (20) business days after the receipt of such appeal. An appeal ordinarily will not be adjudicated if the request becomes a matter of the subject of litigation. On receipt of any appeal involving classified information, the MCC FOIA Appeals Officer must take appropriate action to ensure compliance with applicable classification rules.

(d) *Final agency determinations.* The FOIA Appeals Officer shall issue a final written determination, stating the basis for the decision, within twenty (20) business days after receipt of a notice of appeal. Any decision that upholds MCC's determination in whole or in part must contain a statement that identifies the reason(s) for the decision, including any FOIA exemptions applied. The decision will provide the requester with notification of the statutory right to file a lawsuit and will inform the requester of the dispute resolution services offered by the OGIS of the National Archives and Records Administration as an alternative to litigation. If the Chief FOIA Officer's decision is remanded or modified on appeal, the FOIA Appeals Officer will notify the requester of the determination in writing. MCC will then further process the request in accordance with the appeal determination and will respond directly to the requester.

(e) *Engaging in dispute resolution services provided by OGIS.* Dispute resolution is a voluntary process. If MCC agrees to participate in the dispute resolution services provided by OGIS, MCC will actively engage as a partner to the process in an attempt to resolve the dispute.

(f) *When an appeal is required.* Before seeking review by a court of MCC's adverse determination, a requester generally must first submit a timely administrative appeal.

§ 1304.10 Preservation of records.

MCC shall preserve all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to Title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration. MCC shall not dispose of or destroy records while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

§ 1304.11 Fees.

(a) *General information.* (1) MCC's fee provisions are governed by the FOIA and by the Office of Management and Budget's Uniform FOIA Fee Schedule and Guidelines. For purposes of assessing fees, the FOIA establishes the following categories of requesters:

(i) Commercial use;

(ii) Non-commercial scientific or educational institutions;

(iii) Representative of the news media; and

(iv) All other requesters.

(2) Fees will be assessed pursuant to the category of requester and detailed in paragraph (b) of this section. Requesters may seek a fee waiver. To resolve any fee issues that arise under this section, MCC may contact a requester for additional information. MCC will ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner. MCC ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees to the Treasury of the United States. All fee information is available at *www.mcc.gov/resources/foia.*

(b) *Charging fees.* Because the fee amounts provided already account for the direct costs associated with the given fee type, MCC will not add any additional costs to charges calculated under this section. In responding to FOIA requests, MCC shall charge fees for the following unless a waiver or reduction of fees has been granted:

(1) *Search time fees.* Search time includes page-by-page or line-by-line identification of information within records and the reasonable efforts expended to locate and retrieve information from electronic records.

(i) Requests made by education institutions, non-commercial scientific institutions, or representatives of the news media are not subject to search time fees. Search time fees shall be charged for all other requesters, subject to the restrictions identified in this section. MCC may properly charge for time spent searching even if no

responsive records are located if it is determined that the records are entirely exempt from disclosure.

(ii) Requesters shall be charged the direct costs associated with conducting any searches that require the creation of a new computer program to locate the requested records. Requesters shall be notified of the costs associated with creating such a program and must agree to pay the associated costs before the costs may be incurred.

(iii) For requests that require the retrieval of records stored by an agency at the Federal Records Centers operated by the National Archives and Records Administration (NARA), additional costs shall be charged in accordance with the Transactional Billing Range Schedule established by NARA.

(2) *Duplication fees.* Duplication fees shall be charged to all requesters, subject to the restrictions in this section. MCC shall honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible by MCC in the form or format requested. Where photocopies are supplied, MCC shall provide one copy per request and charge fees calculated per page. For copies of records produced on tapes, disks, or other media, MCC shall charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned in order to comply with a requester's preference to receive the records in an electronic format, the requester shall be charged direct costs associated with scanning those materials. For other forms of duplication, MCC shall charge the direct costs.

(3) *Review.* Review fees shall be charged to requesters who make commercial use requests. Review fees shall be assessed in connection with the initial review of the record. No charge will be made for review at the administrative appeal state of exemptions applied at the initial review stage. If a particular exemption is deemed to no longer apply, any costs associated with MCC's subsequent review following the administrative appeal of the records in order to consider the use of other exemptions may be assessed as review fees.

(c) *Restrictions on charging fees.* The following restrictions shall apply to MCC FOIA requests:

(1) If MCC fails to comply with the FOIA's time limits to respond to a request, MCC may not charge fees, except as described in paragraphs (c)(3) through (5) of this section;

(2) If MCC has determined that unusual circumstances as defined by the FOIA apply and the agency provided timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional ten (10) calendar days;

(3) If MCC has determined that unusual circumstances as defined by the FOIA apply, and more than five-thousand (5000) pages are necessary to respond to the request, MCC may charge search time fees or duplication fees where applicable, if MCC has provided timely written notice of the unusual circumstances to the requester in accordance with the FOIA and has discussed with the requester via written mail, email, or telephone (or made a minimum of three (3) good-faith attempts to do so) how the requester could effectively limit the scope of the request;

(4) If a court has determined that exceptional circumstances exist as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order; and

(5) No search time or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(d) *Fee exceptions.* Except for requesters seeking records for commercial use, MCC shall provide without charge:

(1) The first one-hundred (100) pages of duplication (or the cost equivalent for other media); and

(2) The first two (2) hours of search time. When, after deducting the first one-hundred (100) free pages (or its cost equivalent) and the first two (2) hours of search time, a total fee calculated under this section is $25.00 or less for any request, no fee will be charged.

(e) *Notice of anticipated fees in excess of $25.00.* (1) When MCC determines that the fees to be assessed will exceed $25.00, the requester shall be notified of the actual or estimated amount of the fees, including the breakdown of the fees for search time, review or duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, MCC shall advise the requester accordingly. If the requester is a not a commercial use requester, the notice shall specify that the requester is entitled to the statutory requirements of one-hundred (100) pages of duplication at no charge and, if the requester is charged search time fees, two (2) hours of search time at no charge, and shall advise the requester whether those entitlements have been provided.

(2) In cases in which a requester has been notified that the actual or estimated fees are in excess of $25.00, the request shall not be considered received and further work will not be completed until the requester commits, in writing, to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a requester who is not a commercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable designate an exact dollar amount the requester is willing to pay. MCC is not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, and MCC estimates that the total fee will exceed that amount, MCC shall toll the processing of the request when it notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. MCC shall inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, the time to respond will resume from where it was at the date of the notification.

(4) The FOIA Program Officer will assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(f) *Waiver or reduction of fees.* Documents shall be furnished without charge or at a charge below that listed in this section based upon information provided by a requester or otherwise made known to the Chief FOIA Officer that disclosure of the requested information is in the public interest. Disclosure is in the public interest if it is likely to contribute significantly to public understanding of government operations and is not primarily for commercial purposes. Requests for a waiver or reduction of fees shall be considered on a case by case basis. Where only some of the records to be released satisfy the requirements for waiver of fees, a waiver shall be granted to those records. In order to determine whether the fee waiver requirement is met, the Chief FOIA Officer shall consider the following factors:

(1) The subject of the request. Whether the subject of the requested records concerns the operations or activities of the government;

(2) The informative value of the information to be disclosed; and

(3) The significance of the contribution to public understanding.

(g) *Fees pending a waiver request.* Requests for a waiver or reduction of fees should be made when the request is first submitted to the agency and should address the criteria referenced in this section. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester must pay any costs incurred up to the date the fee waiver request was received.

(h) *Types of requesters.* There are four categories of FOIA requesters: Commercial use requesters, educational and non-commercial scientific institutional requesters; representatives of the news media; and all other requesters. The following specific levels of fees are prescribed for each of these categories:

(1) Commercial requesters shall be charged the full direct costs of searching for, reviewing, and duplicating requested records;

(2) Educational and non-commercial scientific institution requesters shall be charged for document duplication only and the first one-hundred (100) pages of paper copies shall be provided without charge;

(3) Representative of the news media requesters shall be charged for document duplication costs only, except that the first one-hundred (100) pages of paper copies shall be provided without charge; and

(4) All other requesters who do not fall into any of the categories in paragraphs (h)(1) through (3) of this section shall be charged fees which recover the full reasonable direct costs incurred for searching for and reproducing records if that total costs exceeds $25.00, except that the first one-hundred (100) pages of duplication and the first two hours of manual search time shall not be charged.

(i) *Charges for unsuccessful searches.* If the requester has been notified of the estimated cost of the search time and has been advised specifically that the requested records may not exist or may be withheld as exempt, fees may be charged.

(j) *Charges for other services.* Although MCC is not required to provide special services, if it chooses to do so as a matter of administrative discretion, the direct costs of providing the service shall be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(k) *Charging interest.* MCC may charge interest on any unpaid bill starting on the 31st day following the date of billing the requester. Interest charges shall be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received. MCC shall follow the provisions of the Debt Collection Act of 1982, as amended, and its administrative procedures, including the use consumer reporting agencies, collection agencies, and offset.

(l) *Aggregating requests.* The requester or a group of requesters may not submit multiple requests at the same time, each seeking portions of a document or documents solely in order to avoid payment of fees. When the FOIA Program Officer reasonably believes that a requester is attempting to divide a request into a series of requests to evade an assessment of fees, the FOIA Program Officer may aggregate such requests and charge accordingly. MCC may presume that multiple requests of this type made within a thirty (30) calendar day period have been made in order to avoid fees. For requests separated by a longer period, MCC will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters cannot be aggregated.

(m) *Advance payment of fees.* (1) MCC may require an advanced payment of fees if the requestor previously failed to pay fees or if the FOIA Program Officer determines the total fee will exceed $250.00. When payment is required in advance of the processing of a request, the time limits prescribed in § 1304.5 shall not be deemed to begin until the requester has paid the assessed fees.

(2) In cases in which MCC requires advance payment, the request will not be considered received and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within thirty (30) calendar days after the date of the fee determination, the request will be closed. Where it is anticipated that the cost of providing the requested record will exceed $25.00 but falls below $250.00 after the free duplication and search time has been calculated, MCC may, in its discretion may require either an advance deposit of the entire estimated charges or written confirmation of the requester's willingness to pay such charges.

(3) Where the requester has previously failed to pay a properly charged FOIA fee within thirty (30) calendar days of the billing date, MCC may require the requester to pay the full amount due plus any applicable interest on that prior request, and/or require that the requester make an advance payment of the full amount of the anticipated fee before MCC begins a new request or continues to process a pending request or any pending appeal. If MCC has a reasonable basis to believe that a requester has misrepresented the requester's identity in order to avoid paying outstanding fees, MCC may require that the requester provide proof of identity.

§ 1304.12 Other rights and services.

Nothing in this part shall be construed to entitle any person a right to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

Subpart B [Reserved]

Dated: March 7, 2018.

Tamiko N.W. Watkins,

Chief FOIA Officer, Millennium Challenge Corporation.

[FR Doc. 2018–04993 Filed 3–16–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2017–0482; FRL–9975–22–Region 10]

Air Plan Approval; Oregon; 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 Oregon Regional Haze State Implementation Plan (SIP), submitted by the State of Oregon on July 18, 2017. Oregon 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. Oregon 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.

DATES: Comments must be received on or before April 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0482 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.*

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

I. Background

Oregon submitted its initial regional haze SIP to the EPA on December 20, 2010, and submitted supplemental information on February 1, 2011. The EPA approved portions of the Oregon regional haze SIP as meeting certain requirements of the regional haze program, including the requirements for best available retrofit technology, on July 5, 2011, and the remaining portions of the regional haze SIP on August 22, 2012.[1] 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[2] (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 July 18, 2017, the Oregon Department of Environmental Quality (ODEQ) submitted as a SIP revision a report on the progress made in the first implementation period towards the RPGs for Class I areas. The EPA is proposing to approve Oregon's progress report on the basis that it satisfies the requirements of 40 CFR 51.308. We also propose to find that Oregon'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 Oregon to meet all established RPGs for 2018.

II. Context for Understanding Oregon's Progress Report

To facilitate a better understanding of Oregon's progress report as well as the EPA's evaluation of it, this section provides background on the regional haze program in Oregon.

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. Oregon has twelve Class I areas within its borders: Mt. Hood Wilderness, Mt. Jefferson Wilderness, Mt. Washington Wilderness, Three Sisters Wilderness, Diamond Peak Wilderness, Crater Lake National Park, Mountain Lakes Wilderness, Gearhart Mountain Wilderness, Kalmiopsis Wilderness, Strawberry Mountain Wilderness, Eagle Cap Wilderness, and Hells Canyon Wilderness. Monitoring data representing visibility conditions in Oregon's 12 Class I areas was based on the six IMPROVE monitors identified in Table 1. As shown in the table, the CRLA1 monitoring site represents four Class I areas, the THSI1 site represents three areas, and the SRAR1 site represents two areas.

TABLE 1—OREGON IMPROVE MONITORING SITES AND REPRESENTED CLASS I AREAS

Site code	Class I area
MOHO1	Mt. Hood Wilderness.
THSI1	Mt. Jefferson Wilderness.
	Mt. Washington Wilderness.
	Three Sisters Wilderness.
CRLA1	Crater Lake National Park.
	Diamond Peak Wilderness.
	Mountain Lakes Wilderness.
	Gearhart Mountain Wilderness.
KALM1	Kalmiopsis Wilderness.
STAR1	Strawberry Mountain Wilderness.
	Eagle Cap Wilderness.
HECA1	Hells Canyon Wilderness Area.

In developing its initial regional haze SIP as part of the Western Regional Air Partnership (WRAP), Oregon determined, and the EPA in its approval agreed, that no major contributions were identified that necessitated developing new interstate strategies, mitigation measures, or emission reduction obligations with respect to visibility in other western states.[3] Therefore, Oregon's progress report does not address visibility impacts from sources in other states or the visibility impact of Oregon 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. Oregon set the RPGs for its twelve Class I areas based on regional atmospheric air quality modeling conducted by the WRAP using projected emission reductions in western states from federal and state control strategies expected to be in place before 2018.

B. Data Sources for Oregon's Progress Report

Oregon relied on the 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. The WRAP report

[1] See 76 FR 38997 and 77 FR 50611.

[2] 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.

[3] 76 FR 12651, 12663–64; 76 FR 38997.

was prepared for the 15 western state members to provide the technical basis for the first of their individual progress reports. Data are presented in this report on a regional, state, and Class I area specific basis that characterize the difference between baseline conditions (2000–2004) and the first 5-year progress period (2005–2009). In developing the progress report, Oregon also evaluated visibility conditions in its twelve Class I areas based on the most recent 5-year data available at the time Oregon developed the progress report (2010–2014).

III. The EPA's Evaluation of Oregon's Progress Report

This section describes the contents of Oregon'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, Oregon provided a description of the two key control measures that the state relied on to implement the regional haze program: best available retrofit technology (BART), including enforceable emission limits on BART-eligible sources, and its smoke management program for forestry burning.[4] Oregon included a description of these programs which are summarized below.

1. BART-Level Controls

Oregon's regional haze SIP identified four BART eligible facilities: The Portland General Electric (PGE) Boardman electric power plant, the PGE Beaver electric power plant, the Georgia-Pacific Wauna Mill, and the International Paper Company mill in Springfield. Of these four facilities, only PGE Boardman was found to be subject to BART. Accordingly, PGE Boardman installed low nitrogen oxide (NO_X) burners with a modified over-fire air system in 2011 and is meeting BART NO_X emission limitations. In early 2014, BART sulfur dioxide (SO_2) controls, consisting of a semi-dry flue gas desulfurization system, were installed at PGE Boardman. This facility now complies with the initial BART SO_2 emission limit. A further reduction in the SO_2 emission limit is required at PGE Boardman by 2018. Finally, the BART requirements for the PGE Boardman plant include permanently ceasing burning coal in the main boiler by December 31, 2020.

In addition to the BART-level controls on the PGE Boardman power plant, three BART-eligible sources took federally enforceable emission limits to avoid being subject to BART. Specifically, the PGE Beaver electric power plant has six combined cycle turbines that are the BART-eligible emission units. PGE requested daily fuel oil limits for these turbines, as well as a requirement that all future oil contain no more than 0.0015% sulfur. An equation was developed to determine a daily fuel oil quantity limit that was tied to the sulfur content of the fuel, so as not to exceed the visibility threshold level of 0.5 deciview.[5] This plant has a Title V operating permit, which was modified on January 21, 2009, to incorporate federally enforceable permit limits (FEPLs), which included the above daily fuel oil limits and sulfur content in fuel oil burned at the plant.

Georgia-Pacific proposed a FEPL for its Wauna Mill which provided for reduced emissions of visibility impairing pollutants in two steps. The non-condensible gas (NCG) incinerator, which was the largest source of SO_2 emissions at the mill, was eliminated, and restrictions on the use of fuel oil were established through FEPLs:

- The use of fuel oil in the power boiler was permanently discontinued.
- Use of fuel oil in the lime kiln was discontinued until the NCG incinerator was eliminated, after which fuel oil was again used.
- The maximum pulp production rate was limited to 1,030 tons per day until completion of this project, after which the maximum pulp production limit would increase to 1,350 tons per day.

This plant has a Title V operating permit, number 04–0004, which was modified on June 18, 2009, to incorporate the FEPL requirements. This permit was again revised on December 2, 2010, to reflect elimination of the NCG incinerator.

The International Paper Company mill in Springfield manufactures linerboard, primarily from wood chips and recycled old corrugated containers. This plant has seven different BART-eligible emission units. In order to minimize the likelihood of exceeding the 0.5 deciview visibility threshold, FEPLs were established including a restriction on fuel oil could be burned at the facility. The plant's Title V operating permit was modified on April 7, 2009, to incorporate the FEPL requirements. Compliance with the condition to limit visibility impacts is demonstrated through the use of a formula, emission factors, and continuous emissions monitoring data.

Oregon's 2010 regional haze SIP identified a fifth facility, the Amalgamated Sugar Company's sugar beet processing facility located in Nyssa. This facility has potential impacts greater than 0.5 deciview for the Eagle Cap Wilderness Area based on CALPUFF modeling of 2003–2005 emissions. As noted in the progress report, ''The plant is currently shutdown, and has not identified a date to resume operations. DEQ's BART rules in 340–223–0040(3) specify that this facility must either modify its permit by adopting an FEPL or be subject to BART, before resuming operation. At this time, this facility is still shutdown, and the permit has not been modified.''

2. Smoke Management

Throughout the first regional haze planning period, Oregon implemented its Smoke Management Plan (smoke management plan). The primary purpose of the smoke management plan is to keep smoke from forestland prescribed burning from being carried into smoke sensitive receptor areas, generally population centers, and to provide opportunity for essential forestland burning while minimizing emissions. Smoke from agricultural and forestry burning are major contributors to Class I area visibility impairment and regional haze in Oregon and the western United States. The pollutant species contribution identified in the Oregon regional haze SIP showed that a significant portion of the 20% most impaired days in all of Oregon's Class I areas is from organic and elemental carbon, due to fire emissions. Much of this contribution is from wildfire, which fluctuates significantly from year to year. However, there is also a sizable contribution from controlled burning, which is dominated by agricultural and forestry burning.

Under Oregon Revised Statutes (ORS) 477.013, the State Forester and ODEQ are required to protect air quality through a smoke management plan, which was included in the SIP. Oregon Department of Forestry (ODF) smoke management rules are listed in Oregon Administrative Rules (OAR) 629–048–0001 to 629–048–0500, 629–043–0043, and 629–043–0041.

On November 2, 2007, ODF adopted revisions to the smoke management

[4] The progress report also included a summary of stationary, mobile, and area source control measures that provide supplemental emissions reductions as part of the long-term strategy discussion in Chapter 2.3.

[5] Under the approved Oregon regional haze SIP, any source with an impact of greater than 0.5 deciview in any Class I area, including Class I areas in other states, would be subject to additional BART analysis and BART emission limitations.

plan to incorporate numerous changes to provide protection of air quality and visibility in Class I areas. New visibility protection provisions were adopted in OAR 629–048–0130 that incorporated references to the regional haze SIP, including the Enhanced Smoke Management Program (ESMP) criteria in section 309 of the Regional Haze Rule. Oregon continues to evaluate the impact of prescribed fire on Class I areas and make necessary improvements. As a result, Oregon revised the smoke management plan again in 2014 to incorporate practices to minimize impacts to the Kalmiopsis Wilderness and Crater Lake National Park. The 2014 revisions to the smoke management plan were submitted as a revision to the SIP and will be addressed in a separate action.

B. Summary of Visibility Conditions

In addition to the evaluation of control measures, Oregon 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 (2010–2014) based on data that were available at the time Oregon developed the progress report.

TABLE 2—OREGON CLASS I AREA VISIBILITY CONDITIONS ON THE 20% MOST AND LEAST IMPAIRED DAY

Monitor/region	Oregon class I area	20% Most impaired days				20% Least impaired days			
		2000–04 Baseline (dv)	2005–09 First progress period (dv)	2010–14 Current period (dv)	2018 RPGs (dv)	2000–04 Baseline (dv)	2005–09 First progress period (dv)	2010–14 Current period (dv)	2018 RPGs (dv)
MOHO1 Northern Cascades	Mt. Hood Wilderness Area	14.9	13.7	13.2	13.8	2.2	1.7	1.3	2.0
THES1 Central Cascades	Mt. Jefferson, Mt. Washington, and Three Sisters Wilderness Areas.	15.3	16.2	14.9	14.3	3.0	3.0	2.5	2.9
CRLA1 Southern Cascades	Crater Lake National Park; Diamond Peak, Mountain Lakes, and Gearhart Mountain Wilderness Areas.	13.7	13.8	11.7	13.4	1.7	1.6	1.2	1.5
KALM1 Coast Range	Kalmiopsis Wilderness Area	15.5	16.4	14.6	15.1	6.3	6.4	6.1	6.1
STAR1 Eastern Oregon	Strawberry Mountain and Eagle Cap Wilderness Areas.	18.6	16.2	12.5	17.5	4.5	3.6	2.8	4.1
HECA1 Eastern Oregon/Western Idaho.	Hells Canyon Wilderness Area	18.6	18.2	16.3	16.6	5.5	4.8	4.1	4.7

Based on the information in Chapter 3.2 of the progress report, Oregon demonstrated that all Class I areas experienced improvements in visibility for the 20% most and least impaired days between the baseline (2000–2004) and current (2010–2014) visibility periods, as shown in Tables 16 and 17 of the progress report, and summarized in Table 2 above. Oregon's progress report included an analysis of progress and impediments to progress. Oregon noted that there have been significant improvements in visibility conditions on both the 20% most and least impaired days, meeting the 2018 RPGs for all Oregon Class I areas except at the THSI1 monitor, which tracks visibility conditions for the Mt. Jefferson, Mt. Washington and Three Sisters wilderness areas in the Oregon Central Cascades.

In the Oregon Central Cascades, progress towards the RPGs has been slower than anticipated, and Oregon attributed this slower progress to visibility impairment due to smoke from episodic wildfires in the area. The visibility conditions on the 20% most impaired days in the Central Cascades had improved by 0.4 deciviews between the baseline and current progress periods, but had not yet met the 2018 RPG. Tables 17, 18 and 21 and Figure 20 of the report show that, even though there had been a steady reduction in ammonium sulfate formation since 2000, indicative of a reduction in anthropogenic contributions to visibility impairment at this site, particulate organic aerosols has consistently remained the dominant contributor to light extinction, with notable spikes in the summers of 2011 and 2012. Oregon attributed this increase in organic aerosols to wildfire smoke. The 2011 and 2012 fires potentially impacting the THSI1 monitor included the Mother Lode (2,661 acres), Shadow Lake (10,000 acres), High Cascades (108,154 acres), and Pole Creek (26,000 acres) fires, as illustrated in Figure 21 of the report.

Oregon's progress report concluded that the state is making adequate progress in improving visibility as a result of actions identified in the regional haze SIP. The average trends for least impaired days show improvement at every monitoring location, with all areas currently meeting the 2018 RPGs for the 20% least impaired days. Similarly, average trends for most impaired days show improvement at every monitoring location, with all areas except the Central Cascades, as described above, meeting the 2018 RPGs. The progress report also contained a review of Oregon's visibility monitoring strategy, concluding that the IMPROVE network continues to comply with the monitoring requirements in the Regional Haze Rule and that no modifications to Oregon's visibility monitoring strategy are necessary at this time.

C. Summary of Emissions Reductions

The Oregon progress report also includes a summary of the emissions reductions achieved throughout the state through implementation of the control measures relied upon to achieve reasonable progress. Specifically, Oregon identified in the progress report emissions reductions achieved through controls on Oregon BART-eligible sources. The Oregon progress report included the emissions reductions achieved at the PGE Boardman Plant, the PGE Beaver Plant, the Georgia Pacific Wauna Mill, and International Paper Mill. According to the Oregon progress report, implementation of control measures caused significant reductions in SO_2 emissions at all four facilities, as well as reductions in NO_X and coarse particulate matter (PM_{10}) emissions at all facilities except the Georgia Pacific Wauna Mill. The progress report also detailed emissions reductions achieved as part of the smoke management program. In particular, the progress report highlights alternatives to burning such as biomass

removal, chipping, and other techniques to reduce fire hazard, offsetting up to 13,500 tons of fine particulate emissions estimated in 2015 compared to burning.

In addition, the progress report summarized changes in emission inventories for all major visibility impairing pollutants from point, area, on-road mobile, off-road mobile, oil and gas, fugitive and road dust, and anthropogenic fire source categories in the state. For these summaries, emissions during the baseline years are represented using a 2002 inventory, which was developed with support from the WRAP for use in the original regional haze SIP development. Differences between inventories are represented as the difference between the 2002 inventory, and a 2008 inventory which leverages recent inventory development work performed by the WRAP for the West-wide Jump Start Air Quality Modeling Study (WestJumpAQMS) and Deterministic & Empirical Assessment of Smoke's Contribution to Ozone Project ($DEASCO_3$) modeling projects.

Oregon's progress report noted that the emissions inventories were complicated by the changes and enhancements that have occurred between development of the baseline and current period emissions inventories. Oregon stated that many of the differences between inventories are more reflective of changes in inventory methodology, rather that changes in actual emissions. An example is the reclassification of some off-road mobile sources (such as some types of marine vessels and locomotives) into the area source category in 2008, which may have contributed to increases in area source inventory totals, but decreases in off-road mobile totals.

Notwithstanding these differences between the 2002 and 2008 emissions inventory methodologies, estimated emissions reductions for SO_2 and NO_X are summarized in Tables 3 and 4. We note that the other visibility impairing pollutants (primary organic aerosols, elemental carbon, fine soil, and coarse matter) also generally declined as detailed in Chapter 3.4 of the progress report.[6]

TABLE 3—SULFUR DIOXIDE EMISSIONS BY CATEGORY

	Sulfur dioxide emissions (tons/year)		
	2002	2008	Difference (percent change)
Anthropogenic Sources			
Point	18,493	15,918	–2,575
Area	9,932	1,528	–8,404
On-Road Mobile	3,446	654	–2,792
Off-Road Mobile	6,535	431	–6,104
Area Oil and Gas	0	0	0
Fugitive and Road Dust	0	0	0
Anthropogenic Fire	1,586	1,403	–182
Total Anthropogenic	39,992	19,934	–20,058 (–50%)
Natural Sources			
Natural Fire	7,328	1,207	–6,121
Biogenic	0	0	0
Wind Blown Dust	0	0	0
Total Natural	7,328	1,207	–6,121 (–84%)
All Sources			
Total Emissions	47,320	21,140	–26,180 (–55%)

TABLE 4—OXIDES OF NITROGEN EMISSIONS BY CATEGORY

	Oxides of nitrogen emissions (tons/year)		
	2002	2008	Difference (percent change)
Anthropogenic Sources			
Point	26,160	23,548	−2,612
Area	14,740	24,121	9,381
On-Road Mobile	111,646	98,399	−13,247
Off-Road Mobile	53,896	23,463	−30,434
Area Oil and Gas	85	0	−85

[6] Fine soil and coarse mass decreased for the windblown dust inventory comparisons and increased for the combined fugitive/road dust inventories. Oregon noted that large variability in changes in windblown dust was observed for the contiguous WRAP states, which was likely due in large part to enhancements in dust inventory methodology, rather than changes in actual emissions. For most parameters, especially primary organic aerosols, volatile organic compounds, and elemental carbon, natural fire emission inventory estimates decreased, and anthropogenic fire estimates increased. Oregon noted that these differences are not necessarily reflective of changes in monitored data, as the baseline period is represented by an average of 2000–2004 fire emissions, and the progress period is represented only by the fires that occurred in 2008, as referenced in section 3.3.1 of the progress report.

TABLE 4—OXIDES OF NITROGEN EMISSIONS BY CATEGORY—Continued

	Oxides of nitrogen emissions (tons/year)		
	2002	2008	Difference (percent change)
Fugitive and Road Dust	0	0	0
Anthropogenic Fire	6,292	9,923	3,630
Total Anthropogenic	212,819	179,453	−33,366 (−16%)
Natural Sources			
Natural Fire	27,397	8,521	−18,876
Biogenic	16,527	5,560	−10,967
Wind Blown Dust	0	0	0
Total Natural	43,924	14,081	−29,843 (−68%)
All Sources			
Total Emissions	256,744	193,534	−63,209 (–25%)

In its progress report, Oregon concluded that the state is making adequate progress in improving visibility as a result of actions identified in the regional haze SIP, as well as actions taken by adjoining states, the federal government, and compliance with international treaty, as described in more detail in the ''Long Term Strategy Update'' chapter of the progress report.

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 Oregon 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 and least impaired days has improved, and 2018 RPGs attained at all Oregon IMPROVE monitors, except for the 20% most impaired days at the Central Cascades monitor, which Oregon demonstrated was due to smoke from wildfires in 2011 and 2012. Accordingly, the EPA proposes to find that Oregon adequately addressed the requirements in 40 CFR 51.308(h) in its determination that the existing Oregon regional haze SIP requires no substantive revisions at this time to achieve the established RPGs for Class I areas.

E. Consultation With Federal Land Managers (40 CFR 51.308(i))

In accordance with 40 CFR 51.308(i), the state must provide the 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 Oregon invited the FLMs to comment on its draft progress report on February 3, 2016, for a 60-day comment period ending April 4, 2016, prior to releasing the report for public comment. The FLM comments and Oregon's responses are presented in Appendix D of the progress report.

The EPA proposes to find that Oregon has addressed the requirements in 40 CFR 51.308(i). Oregon provided a 60-day period for the FLMs to comment on the progress report, which was at least 60 days before seeking public comments, and provided a summary of these comments and responses to these comments in the progress report.

IV. The EPA's Proposed Action

The EPA is proposing to approve the Oregon Regional Haze Progress Report submitted to the EPA on July 18, 2017, 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 Oregon fulfilled the requirements in 40 CFR 51.308(i) regarding state coordination with FLMs.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations.[7] 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

[7] 42 U.S.C. 7410(k); 40 CFR 52.02(a).

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, Volatile organic compounds.

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

Dated: February 26, 2018.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2018–04931 Filed 3–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0065; FRL–9975–43—Region 1]

Air Plan Approval; Connecticut; Infrastructure State Implementation Plan Requirements; Prevention of Significant Deterioration Permit Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) submission from Connecticut regarding the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 fine particle ($PM_{2.5}$) National Ambient Air Quality Standards (NAAQS), and a SIP submission addressing interstate transport requirements of the CAA for the 2006 $PM_{2.5}$ NAAQS. In addition, we are proposing to approve one statute included in the SIP for the 2012 $PM_{2.5}$ NAAQS. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. The EPA is also proposing to approve revisions to the SIP submitted by Connecticut on October 18, 2017, satisfying Connecticut's earlier commitment to adopt and submit provisions that meet certain requirements of the federal Prevention of Significant Deterioration (PSD) permit program. In addition, we are proposing to convert the June 3, 2016 conditional approval for elements of Connecticut's infrastructure SIP regarding PSD requirements to treat nitrogen oxides (NO_X) as a precursor to ozone and to establish a minor source baseline date for $PM_{2.5}$ emissions. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before April 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2017–0065 at *https://www.regulations.gov,* or via email to *simcox.alison@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100 (Mail code OEP05–2), Boston, MA 02109—3912, tel. (617) 918–1684; *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

A. What Connecticut SIP submissions does this rulemaking address?

This rulemaking addresses three submissions from the Connecticut Department of Energy and Environmental Protection (CT DEEP). The state submitted a SIP addressing the

''Good Neighbor'' (or ''transport'') provisions for the 2006 $PM_{2.5}$ [1] National Ambient Air Quality Standard (NAAQS) (Section 110(a)(2)(D)(I) of the CAA) on August 19, 2011, and an infrastructure SIP (including the transport provisions) for the 2012 $PM_{2.5}$ NAAQS on December 14, 2015. Under sections 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that state SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2006 and 2012 $PM_{2.5}$ NAAQS.

In addition, on October 18, 2017, CT DEEP submitted a SIP revision that addresses applicable requirements for the PSD permit program in Part C of the CAA that are codified in 40 CFR 51.166. PSD permitting requirements apply to new major sources or major modifications for pollutants where the area in which the source is located is either in attainment with or unclassifiable with regard to the relevant NAAQS. CT DEEP had committed by letter dated August 5, 2015, to submit these revisions to the PSD permit program for EPA approval.

B. What is the scope of this rulemaking?

EPA is acting on three SIP submissions from Connecticut that address the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2006 and 2012 $PM_{2.5}$ NAAQS and revisions to the PSD permit program.

The requirement for states to make a SIP submission of this type arises out of CAA sections 110(a)(1) and 110(a)(2). Pursuant to these sections, each state must submit a SIP that provides for the implementation, maintenance, and enforcement of each primary or secondary NAAQS. States must make such SIP submission ''within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a new or revised NAAQS.'' This requirement is triggered by the promulgation of a new or revised NAAQS and is not conditioned upon EPA's taking any other action. Section 110(a)(2) includes the specific elements that ''each such plan'' must address.

EPA commonly refers to such SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as ''infrastructure SIP'' submissions. Although the term ''infrastructure SIP'' does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as ''nonattainment SIP'' or ''attainment plan SIP'' submissions to address the nonattainment planning requirements of part D of title I of the CAA.

This rulemaking will not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission: (i) Existing provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (''SSM'' emissions) that may be contrary to the CAA and EPA's policies addressing such excess emissions; (ii) existing provisions related to ''director's variance'' or ''director's discretion'' that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA (''director's discretion''); and, (iii) existing provisions for Prevention of Significant Deterioration (PSD) programs that may be inconsistent with current requirements of EPA's ''Final New Source Review (NSR) Improvement Rule,'' 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) (''NSR Reform''). Instead, EPA has the authority to address each one of these substantive areas separately. A detailed history, interpretation, and rationale for EPA's approach to infrastructure SIP requirements can be found in EPA's May 13, 2014, proposed rule entitled, ''Infrastructure SIP Requirements for the 2008 Lead NAAQS'' in the section, ''What is the scope of this rulemaking?'' *See* 79 FR 27241 at 27242–45.

II. What guidance is EPA using to evaluate these SIP submissions?

EPA highlighted the statutory requirement to submit infrastructure SIPs within 3 years of promulgation of a new NAAQS in an October 2, 2007, guidance document entitled ''Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards'' (2007 guidance). EPA has issued additional guidance documents and memoranda, including a September 13, 2013, guidance document entitled ''Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)'' (2013 guidance).

With respect to the Good Neighbor provision, the most recent relevant document was a memorandum published on March 17, 2016, entitled ''Information on the Interstate Transport 'Good Neighbor' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)'' (2016 memorandum).[2] The 2016 memorandum describes EPA's past approach to addressing interstate transport, and provides EPA's general review of relevant modeling data and air quality projections as they relate to the 2012 annual $PM_{2.5}$ NAAQS. The 2016 memorandum provides information relevant to EPA Regional office review of the CAA section 110 (a)(2)(D)(i)(I) ''Good Neighbor'' provision requirements in infrastructure SIPs with respect to the 2012 annual $PM_{2.5}$ NAAQS. This rulemaking considers information provided in that memorandum.

III. EPA's Review

In this notice of proposed rulemaking, EPA is proposing action on Connecticut's infrastructure SIP submissions and revisions to the PSD permit program. In Connecticut's submissions, a detailed list of Connecticut Laws and previously SIP-approved Air Quality Regulations show precisely how the various components of its EPA-approved SIP meet each of the requirements of section 110(a)(2) of the CAA for the 2006 and 2012 $PM_{2.5}$ NAAQS. The following review evaluates the state's submissions in light of section 110(a)(2) requirements and relevant EPA guidance. For Connecticut's August 19, 2011 submission addressing the transport provisions with respect to the 2006 $PM_{2.5}$ NAAQS, we reviewed infrastructure elements in Section 110(a)(2)(D)(I).[3] For the state's December 14, 2015 submission addressing the 2012 $PM_{2.5}$ NAAQS, we reviewed all Section 110(a)(2) elements, including the transport provisions, but excluding the three areas discussed above under the scope of this rulemaking. The revisions to the PSD permit program were evaluated for consistency with the regulations at 40 CFR 51.166 and Part C of the CAA and are required to be included in the SIP by Section 110(a)(2)(C).

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section (also referred to in this action as an element) of the Act requires

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, often referred to as ''fine'' particles.

[2] This memorandum is available in the docket and at *https://www.epa.gov/sites/production/files/2016-08/documents/good-neighbor-memo_implementation.pdf.*

[3] EPA previously took action on the other elements of Connecticut's infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS on October 16, 2012 (77 FR 63228) and on June 3, 2016 (81 FR 35636).

SIPs to include enforceable emission limits and other control measures, means or techniques, schedules for compliance, and other related matters. However, EPA has long interpreted emission limits and control measures for attaining the standards as being due when nonattainment planning requirements are due.[4] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the state's SIP has basic structural provisions for the implementation of the NAAQS.

Connecticut Public Act No. 11–80 established the CT DEEP, and Connecticut General Statutes (CGS) Section 22a–6(a)(1) provides the Commissioner of CT DEEP authority to adopt, amend or repeal environmental standards, criteria and regulations. It is under this general grant of authority that the Commissioner has adopted emissions standards and control measures for a variety of sources and pollutants. Connecticut also has SIP-approved provisions for specific pollutants. For example, CT DEEP has adopted primary and secondary ambient air quality standards for $PM_{2.5}$ in Regulations of Connecticut State Agencies (RCSA) Section 22a-174–24(f).

As noted in EPA's approval of RCSA § 22a–174–24, Ambient Air Quality Standards, on June 24, 2015 (80 FR 36242), Connecticut's standards are consistent with the current federal NAAQS. Under element A of its December 14, 2015 infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS, Connecticut DEEP highlighted several rules that the state has previously adopted, and that EPA has previously approved, to limit the quantity, rate, or concentration of emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors. Some of these are: RCSA § 22a–174–18, Control of particulate matter and visible emissions (July 16, 2014; 79 FR 41427); RCSA § 22a–174–19a, Control of sulfur dioxide emissions from power plants and other large stationary sources (July 10, 2014; 79 FR 39322); and RCSA § 22a–174–22, Control of nitrogen oxides emissions (October 6, 1997; 62 FR 52016 and July 10, 2014; 79 FR 39322).

In its infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS, Connecticut submitted revisions to CGS § 16a–21a (Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency). This statute was previously approved into the SIP (June 3, 2016; 81 FR 35636) and limited the sulfur content of fuels sold or used in Connecticut to 0.3 percentage by weight for number two heating oil and off-road diesel fuel. The sulfur content of number two heating oil was further limited to 500 ppm from July 1, 2011 through June 30, 2014, and to 15 ppm beginning July 1, 2014. The EPA-approved statute included a provision that these sulfur limits would not take effect until the states of New York, Massachusetts and Rhode Island each had adopted similar requirements. In addition, the statute allows Connecticut to suspend these requirements if availability of the compliant fuel is inadequate to meet the needs of residential, commercial or industrial users in the state and if Connecticut deems that this constitutes an emergency.

Connecticut's revision of this statute removes the provision concerning the three other states, and moves the dates for the 500-ppm requirement to July 1, 2014 through June 30, 2018, and for the 15-ppm requirement, to July 1, 2018. The revision also includes a provision stating that CT DEEP can use RCSA section 22a–174–19b, fuel sulfur content limitations for stationary sources, to enforce provisions of the statute. EPA has determined that the revision to CGS § 16a–21a is as stringent as the EPA-approved version and, therefore, proposes to approve this revision into the Connecticut SIP.

EPA proposes that Connecticut meets the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2012 $PM_{2.5}$ NAAQS. As previously noted, EPA is not proposing to approve or disapprove any existing state provisions or rules related to SSM or director's discretion in the context of section 110(a)(2)(A).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to include provisions to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and making these data available to EPA upon request. Each year, states submit annual air monitoring network plans to EPA for review and approval. EPA's review of these annual monitoring plans includes our evaluation of whether the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

CT DEEP continues to operate a monitoring network, and EPA approved the state's 2016 Annual Air Monitoring Network Plan for $PM_{2.5}$ on September 12, 2016.[5] Furthermore, CT DEEP populates EPA's Air Quality System (AQS) with air quality monitoring data in a timely manner, and provides EPA with prior notification when considering a change to its monitoring network or plan. Under element B of its December 14, 2015 infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS, Connecticut DEEP referenced EPA's prior approvals of Connecticut's annual network monitoring plans, as well as CGS § 22a–174(d), which provides the Commissioner with ''all incidental powers necessary to carry out the purposes of'' Connecticut's air pollution control laws. EPA proposes that CT DEEP has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2012 $PM_{2.5}$ NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures and for Construction or Modification of Stationary Sources

States are required to include a program providing for enforcement of all SIP measures and the regulation of construction of new or modified stationary sources to meet NSR requirements under PSD and nonattainment new source review (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements.

The evaluation of each state's submission addressing the infrastructure SIP requirements of section 110(a)(2)(C) covers the following: (i) Enforcement of SIP measures; (ii) PSD program for major sources and major modifications; and (iii) a permit program for minor sources and minor modifications.

Sub-Element 1: Enforcement of SIP Measures

CT DEEP staffs and implements an enforcement program pursuant to CGS Title 22a. Specifically, CGS §§ 22a–6 and 22a–6b authorize the Commissioner of CT DEEP to inspect and investigate to ascertain whether violations of any statute, regulation, or permit may have occurred and to impose civil penalties. Additionally, CGS § 22a–171 requires the Commissioner to ''adopt, amend, repeal, and enforce regulations . . . and do any other act necessary to enforce the

[4] *See, e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (Nov. 12, 2008).

[5] EPA's approval letter is included in the docket for today's action.

provisions of'' CGS §§ 22a–170 through 22a–206, which provide CT DEEP with the authority to, among other things, enforce its regulations, issue orders to correct violations of regulations or permits, impose state administrative penalties, and seek judicial relief. EPA proposes that Connecticut has met the enforcement of SIP measures requirement of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: PSD Program for Major Sources and Major Modifications

PSD applies to new major sources or modifications made to major sources for pollutants where the area in which the source is located is in attainment of, or unclassifiable with regard to, the relevant NAAQS. CT DEEP's EPA–approved PSD rules in RCSA sections 22a–174–1, 22a–174–2a, and 22a–174–3a contain provisions that address applicable requirements for all regulated NSR pollutants, including greenhouse gases (GHGs).

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone. *See* 70 FR 71679 at 71699–700. This requirement is codified in 40 CFR 51.166, and requires that states submit SIP revisions incorporating the requirements of the rule, including provisions that would treat NO_X as a precursor to ozone provisions. These SIP revisions were to have been submitted to EPA by states by June 15, 2007. *See* 70 FR 71683.

Connecticut's EPA-approved PSD rules do not currently contain the provisions needed to ensure that NO_X be treated as a precursor to ozone. However, CT DEEP has made the necessary revisions to its regulation and, on October 18, 2017, submitted regulations for the EPA's approval of its PSD rules to treat NOx as precursor pollutant to ozone.

Accordingly, as we discuss further on in our discussion of this sub-element, we are proposing to approve the revisions to CT DEEP's PSD permit program at RCSA Section 22a–174–3a(k)(1)(C), and to convert our June 3, 2016, conditional approval of this PSD infrastructure sub-element relating to treating NO_X emissions as precursor emissions to ozone formation to a full approval. *See* 81 FR 35636.

On October 20, 2010, EPA issued a final rule (75 FR 64864) entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including adding the required elements for $PM_{2.5}$ into a state's existing system of ''increment analysis,'' which is the mechanism used in the PSD permitting program to estimate significant deterioration of ambient air quality for a pollutant in relation to new source construction or modification. The maximum allowable increment increases for different pollutants are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c).

The 2010 NSR Rule described in the preceding paragraph revised the existing system for determining increment consumption by establishing a new ''major source baseline date'' for $PM_{2.5}$ of October 20, 2010, and by establishing a trigger date for $PM_{2.5}$ in relation to the definition of ''minor source baseline date.'' These revisions to the federal PSD rules are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*), and 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*).

Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 52.21(b)(15)(i). States were required to revise their SIPs consistent with these changes to the federal regulations.

On July 24, 2015, EPA approved Connecticut's October 9, 2012, SIP revision for its PSD program, which incorporated two of the four changes addressed by the 2010 NSR Rule. The two changes were (1) a revised definition of ''Major source baseline date'' that included a date for $PM_{2.5}$ specifically; and (2) the addition of the maximum allowable increment for $PM_{2.5}$. *See* 80 FR 43960.

CT DEEP's October 9, 2012, SIP revision did not specifically address the two other changes EPA made to the PSD rules in 2010, and for the following reasons EPA did not include those as part of the conditional approval described in our October 16, 2012 notice. *See* 77 FR 63228. One of those changes is the requirement that a State's definition of ''minor source baseline date'' be amended to include a trigger date for $PM_{2.5}$ emissions (see EPA's definition for ''minor source baseline date'' at 40 CFR 51.166(b)(14)(ii)). Instead of using a specific date, EPA's definition for minor source baseline date provides that the minor source baseline date is triggered by a state's receipt of its first complete PSD application. At the time CT DEEP made its October 9, 2012 SIP revision, it would not have been possible for the State to have amended its regulation to include a specific minor source baseline date because no source had submitted a complete PSD application for $PM_{2.5}$. This is so because CT DEEP's PSD regulations are structured in a way that uses actual specific dates based on submission of a first complete PSD application for a particular pollutant. (The approach contained in EPA's regulations is somewhat different in the sense that instead of using actual specific dates, EPA articulates the concept of a first complete PSD application as the minor source baseline date trigger.) EPA understands that CT DEEP did not receive a complete PSD application for a source subject to PSD for $PM_{2.5}$ emissions until 2014. Consequently, the State could not have included an actual date in its definition of ''minor source baseline date'' within its October 9, 2012 SIP revision.

Although Connecticut could not establish an actual date for $PM_{2.5}$ in its definition of ''minor source baseline date,'' at the time of its October 9, 2012 SIP revision, Connecticut has since revised this definition to include a specific date. As a result, on June 3, 2016, the EPA conditionally approved this element of Connecticut's infrastructure requirements to establish a ''minor source baseline date.'' *See* 81 FR 35636. On October 18, 2017, CT DEEP submitted revised regulations for EPA's approval to satisfy this requirement and establish the minor source baseline date as August 24, 2014, for $PM_{2.5}$. Although Connecticut's approach to establishing a minor source baseline emissions concentration as part of an increment consumption analysis differs slightly from the approach taken under the federal PSD regulations codified at 40 CFR 51.166, the EPA has determined the minor discrepancy does not result in a different minor source baseline emissions concentration and Connecticut's approach is therefore functionally equivalent to the federal PSD regulations. For example, Connecticut's regulation identifies August 24, 2014 as the minor source baseline date as opposed to September 24, 2014 when the State received its first complete PSD application that was significant for $PM_{2.5}$. Although this

approach results in a slightly different time period for calculating minor source baseline emissions (*i.e.,* one month earlier), the EPA has concluded that the calculation would yield a result that is as protective as the federal PSD regulations. Consequently, we propose to approve Connecticut's revisions to the PSD permit program at RCSA Section 22a–174–1(71) and to convert our June 3, 2016 conditional approval of this PSD infrastructure sub-element relating to section 110(a)(2)(C) to a full approval. *See* 81 FR 35636.

On July 3, 2016, EPA fully approved Connecticut's SIP with regard to the remainder of the requirements for this sub-element (81 FR 35636). For a detailed analysis, see EPA's proposed rule at 80 FR 54471.

In summary, we are proposing to approve Connecticut's submittals for this sub-element pertaining to section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS, as well as revisions to the PSD permit program pertaining to treating NO_X as a precursor to ozone and to establishing a minor source baseline date for $PM_{2.5}$.

Sub-Element 3: Preconstruction Permitting for Minor Sources and Minor Modifications

To address the pre-construction regulation of the modification and construction of minor stationary sources and minor modifications of major stationary sources, an infrastructure SIP submission should identify the existing EPA-approved SIP provisions and/or include new provisions that govern the minor source pre-construction program that regulate emissions of the relevant NAAQS pollutants. EPA approved Connecticut's minor NSR program, as well as updates to that program, with the most recent approval occurring on February 28, 2003 (68 FR 9009). Since this date, Connecticut and EPA have relied on the existing minor NSR program to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ NAAQS.

We are proposing to find that Connecticut has met the requirement to have a SIP approved minor new source review permit program as required under Section 110(a)(2)(C) for the 2012 $PM_{2.5}$ NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

This section contains a comprehensive set of air quality management elements pertaining to the transport of air pollution with which states must comply. It covers the following five topics, categorized as sub-elements: Sub-element 1, Significant contribution to nonattainment, and interference with maintenance of a NAAQS;[6] Sub-element 2, PSD; Sub-element 3, Visibility protection; Sub-element 4, Interstate pollution abatement; and Sub-element 5, International pollution abatement. Sub-elements 1 through 3 above are found under section 110(a)(2)(D)(i) of the Act, and these items are further categorized into the four prongs discussed below, two of which are found within sub-element 1. Sub-elements 4 and 5 are found under section 110(a)(2)(D)(ii) of the Act and include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement.

Sub-Element 1: Section 110(a)(2)(D)(i)(I)—Significant Contribution to Nonattainment (Prong 1) and Interference With Maintenance of the NAAQS (Prong 2)

Section 110(a)(2)(D)(i)(I) of the CAA requires a SIP to prohibit any emissions activity in the state that will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in any downwind state. EPA commonly refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the ''Good Neighbor'' or ''transport'' provisions of the CAA. This rulemaking proposes action on the portions of Connecticut's August 19, 2011 and December 14, 2015 SIP submissions that address the prong 1 and 2 requirements with respect to the 2006 and 2012 $PM_{2.5}$ NAAQS, respectively.

EPA has developed a consistent framework for addressing the prong 1 and 2 interstate-transport requirements with respect to the $PM_{2.5}$ NAAQS in several previous federal rulemakings. The four basic steps of that framework include: (1) Identifying downwind receptors that are expected to have problems attaining or maintaining the NAAQS; (2) identifying which upwind states contribute to these identified problems in amounts sufficient to warrant further review and analysis; (3) for states identified as contributing to downwind air quality problems, identifying upwind emissions reductions necessary to prevent an upwind state from significantly contributing to nonattainment or interfering with maintenance of the NAAQS downwind; and (4) for states that are found to have emissions that significantly contribute to nonattainment or interfere with maintenance of the NAAQS downwind, reducing the identified upwind emissions through adoption of permanent and enforceable measures. This framework was most recently applied with respect to $PM_{2.5}$ in the Cross-State Air Pollution Rule (CSAPR), which addressed both the 1997 and 2006 $PM_{2.5}$ standards, as well as the 1997 ozone standard. *See* 76 FR 48208 (August 8, 2011).

EPA's analysis for CSAPR, conducted consistent with the four-step framework, included air-quality modeling that evaluated the impacts of 38 eastern states on identified receptors in the eastern United States. EPA indicated that, for step 2 of the framework, states with impacts on downwind receptors that are below the contribution threshold of 1% of the relevant NAAQS would not be considered to significantly contribute to nonattainment or interfere with maintenance of the relevant NAAQS, and would, therefore, not be included in CSAPR. *See* 76 FR 48220. EPA further indicated that such states could rely on EPA's analysis for CSAPR as technical support in order to demonstrate that their existing or future interstate transport SIP submittals are adequate to address the transport requirements of 110(a)(2)(D)(i)(I) with regard to the relevant NAAQS. *Id.*

In addition, as noted above, on March 17, 2016, EPA released the 2016 memorandum to provide information to states as they develop SIPs addressing the Good Neighbor provision as it pertains to the 2012 $PM_{2.5}$ NAAQS. Consistent with step 1 of the framework, the 2016 memorandum provides projected future-year annual $PM_{2.5}$ design values for monitors throughout the country based on quality-assured and certified ambient-monitoring data and recent air-quality modeling and explains the methodology used to develop these projected design values. The memorandum also describes how the projected values can be used to help determine which monitors should be further evaluated to potentially address if emissions from other states significantly contribute to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS at these monitoring sites. The 2016 memorandum explained that the pertinent year for evaluating air quality for purposes of addressing interstate transport for the 2012 $PM_{2.5}$ NAAQS is 2021, the attainment deadline for 2012 $PM_{2.5}$ NAAQS nonattainment areas

[6] For this sub-element *only,* we are evaluating two Connecticut SIP submittals, the transport SIP for the 2006 $PM_{2.5}$ NAAQS submitted on August 19, 2011, and the infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS submitted on December 14, 2015.

classified as Moderate. Accordingly, because the available data included 2017 and 2025 projected average and maximum $PM_{2.5}$ design values calculated through the CAMx photochemical model, the memorandum suggests approaches states might use to interpolate $PM_{2.5}$ values at sites in 2021.

For all but one monitor site in the eastern United States, the modeling data provided in the 2016 memorandum showed that monitors were expected to both attain and maintain the 2012 $PM_{2.5}$ NAAQS in both 2017 and 2025. The modeling results project that this one monitor, the Liberty monitor, (ID number 420030064), located in Allegheny County, Pennsylvania, will be above the 2012 annual $PM_{2.5}$ NAAQS in 2017, but only under the model's maximum projected conditions, which are used in EPA's interstate transport framework to identify maintenance receptors. The Liberty monitor (along with all the other Allegheny County monitors) is projected to both attain and maintain the NAAQS in 2025. The 2016 memorandum suggests that under such a condition (again, where EPA's photochemical modeling indicates an area will maintain the 2012 annual $PM_{2.5}$ NAAQS in 2025, but not in 2017), further analysis of the site should be performed to determine if the site may be a nonattainment or maintenance receptor in 2021 (which, again, is the attainment deadline for moderate $PM_{2.5}$ areas). The memorandum also indicates that for certain states with incomplete ambient monitoring data, additional information including the latest available data, should be analyzed to determine whether there are potential downwind air quality problems that may be impacted by transported emissions. This rulemaking considers these analyses for Connecticut, as well as additional analysis conducted by EPA during review of Connecticut's submittals.

To develop the projected values presented in the memorandum, EPA used the results of nationwide photochemical air-quality modeling that it recently performed to support several rulemakings related to the ozone NAAQS. Base-year modeling was performed for 2011. Future-year modeling was performed for 2017 to support the proposed CSAPR Update for the 2008 Ozone NAAQS. *See* 80 FR 75705 (December 3, 2015). Future-year modeling was also performed for 2025 to support the Regulatory Impact Assessment of the final 2015 Ozone NAAQS.[7] The outputs from these model runs included hourly concentrations of $PM_{2.5}$ that were used in conjunction with measured data to project annual average $PM_{2.5}$ design values for 2017 and 2025. Areas that were designated as moderate $PM_{2.5}$ nonattainment areas for the 2012 annual $PM_{2.5}$ NAAQS in 2014 must attain the NAAQS by December 31, 2021, or as expeditiously as practicable. Although neither the available 2017 nor 2025 future-year modeling data corresponds directly to the future-year attainment deadline for moderate $PM_{2.5}$ nonattainment areas, EPA believes that the modeling information is still helpful for identifying potential nonattainment and maintenance receptors in the 2017–2021 period. Assessing downwind $PM_{2.5}$ air-quality problems based on estimates of air-quality concentrations in a future year aligned with the relevant attainment deadline is consistent with the instructions from the United States Court of Appeals for the District of Columbia Circuit in *North Carolina* v. *EPA,* 531 F.3d 896, 911–12 (D.C. Cir. 2008) that upwind emission reductions should be harmonized, to the extent possible, with the attainment deadlines for downwind areas.

Connecticut's Submissions for Prongs 1 and 2

On September 18, 2009, CT DEEP submitted an infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS, which included transport provisions that addressed prongs 1 and 2 with respect to the 2006 $PM_{2.5}$ NAAQS. However, on January 7, 2011, CT DEEP withdrew the transport portion of this 2009 SIP. On August 19, 2011, Connecticut submitted a revised SIP that replaced the portions of the state's submission that were previously withdrawn. The state's revised SIP relied on EPA's analysis performed for the CSAPR rulemaking to conclude that the state will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any downwind area.

On December 14, 2015, CT DEEP submitted an infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS. This submission addressed prongs 1 and 2 of the interstate transport requirements. Based on information given in Attachment D of its SIP submission, Connecticut concluded that it does not contribute significantly to nonattainment or interfere with maintenance of the 2012 annual $PM_{2.5}$ NAAQS in any other state because projected emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors (NO_X and SO_2) in Connecticut are expected to decline over at least the next decade, and there are federal and SIP-approved state regulations in place to control emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors.

Regarding future emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors, Connecticut developed comprehensive emissions inventories in collaboration with other states in the Mid-Atlantic/Northeast Visibility Union (MANE–VU). Results indicate that total emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors are projected to decrease significantly between 2007 and 2025 in New Haven and Fairfield counties in southwestern Connecticut, the area of the state that historically has had the highest monitored $PM_{2.5}$ levels.[8]

EPA analyzed the state's August 19, 2011 and December 14, 2015 SIP submittals to determine whether they fully address the prong 1 and 2 transport provisions with respect to the 2006 and 2012 $PM_{2.5}$ NAAQS. As discussed below, EPA concludes that emissions of $PM_{2.5}$ and $PM_{2.5}$ precursors in Connecticut will not significantly contribute to nonattainment or interfere with maintenance of the 2006 or 2012 $PM_{2.5}$ NAAQS in any other state.

Analysis of Connecticut's Submission for the 2006 $PM_{2.5}$ NAAQS

With respect to the 2006 $PM_{2.5}$ NAAQS, EPA's analysis in the 2011 CSAPR rulemaking determined that Connecticut's impact to all downwind receptors would be below the 1% contribution threshold for this NAAQS (*i.e.,* 0.15 $\mu g/m^3$), indicating that the state will not significantly contribute to nonattainment or interfere with maintenance for the 2006 $PM_{2.5}$ NAAQS in any downwind state. As noted above, EPA previously determined that states can rely on EPA's CSAPR analysis for the 2006 $PM_{2.5}$ NAAQS. Accordingly, as EPA has already concluded that Connecticut will not significantly contribute to nonattainment or interfere with maintenance of the 2006 $PM_{2.5}$ NAAQS, we do not need to reevaluate Connecticut's Good Neighbor obligation with respect to this NAAQS. Consequently, EPA is proposing to approve Connecticut's August 8, 2011, SIP submission with regard to prongs 1 and 2 for the 2006 $PM_{2.5}$ NAAQS.

Analysis of Connecticut's Submission for the 2012 $PM_{2.5}$ NAAQS

As noted above, the modeling discussed in EPA's 2016 memorandum identified one potential maintenance receptor for the 2012 $PM_{2.5}$ NAAQS at

[7] *See* 2015 ozone NAAQS RIA at: *https://www3.epa.gov/ttnecas1/docs/20151001ria.pdf.*

[8] ''Connecticut's $PM_{2.5}$ Redesignation Request and Maintenance Plan, Technical Support Document,'' (June 22, 2012). Included in the docket for this notice.

the Liberty monitor (ID number 420030064), located in Allegheny County. The memorandum also identified certain states with incomplete ambient monitoring data as areas that may require further analysis to determine whether there are potential downwind air quality problems that may be impacted by transported emissions.

While developing the 2011 CSAPR rulemaking, EPA modeled the impacts of all 38 eastern states in its modeling domain on fine particulate matter concentrations at downwind receptors in other states in the 2012 analysis year in order to evaluate the contribution of upwind states on downwind states with respect to the 1997 and 2006 $PM_{2.5}$. Although the modeling was not conducted for purposes of analyzing upwind states' impacts on downwind receptors with respect to the 2012 $PM_{2.5}$ NAAQS, the contribution analysis for the 1997 and 2006 standards can be informative for evaluating Connecticut's compliance with the Good Neighbor provision for the 2012 standard.

This CSAPR modeling showed that Connecticut had a very small impact (0.005 $\mu g/m^3$) on the Liberty monitor in Allegheny County, Pennsylvania, which is the only out-of-state monitor that may be a nonattainment or maintenance receptor in 2021. Although EPA has not proposed a particular threshold for evaluating the 2012 $PM_{2.5}$ NAAQS, EPA notes that Connecticut's impact on the Liberty monitor is far below the threshold of 1% for the annual 2012 $PM_{2.5}$ NAAQS (*i.e.,* 0.12 $\mu g/m^3$) that EPA previously used to evaluate the contribution of upwind states to downwind air-quality monitors. (A spreadsheet showing CSAPR contributions for ozone and $PM_{2.5}$ is included in docket EPA–HQ–OAR–2009–0491–4228.) Therefore, even if the Liberty monitor were considered a receptor for purposes of transport, the EPA proposes to conclude that Connecticut will not significantly contribute to nonattainment, or interfere with maintenance, of the 2012 $PM_{2.5}$ NAAQS at that monitor.

In addition, the Liberty monitor is already close to attaining the 2012 $PM_{2.5}$ NAAQS, and expected emissions reductions in the next four years will lead to additional reductions in measured $PM_{2.5}$ concentrations. There are both local and regional components to measured $PM_{2.5}$ levels. All monitors in Allegheny County have a regional component, with the Liberty monitor most strongly influenced by local sources. This is confirmed by the fact that annual average measured concentrations at the Liberty monitor have consistently been 2–4 $\mu g/m^3$ higher than other monitors in Allegheny County.

Specifically, previous CSAPR modeling showed that regional emissions from upwind states, particularly SO_2 and NOx emissions, contribute to $PM_{2.5}$ nonattainment at the Liberty monitor. In recent years, large SO_2 and NO_X reductions from power plants have occurred in Pennsylvania and states upwind from the Greater Pittsburgh region. Pennsylvania's energy sector emissions of SO_2 will have decreased 166,000 tons between 2015–2017 as a result of CSAPR implementation. This is due to both the installation of emissions controls and retirements of electric generating units (EGUs). Projected power plant closures and additional emissions controls in Pennsylvania and upwind states will help further reduce both direct $PM_{2.5}$ and $PM_{2.5}$ precursors. Regional emission reductions will continue to occur from current on-the-books federal and state regulations such as the federal on-road and non-road vehicle programs, and various rules for major stationary emissions sources. *See* proposed approval of the Ohio Infrastructure SIP for the 2012 $PM_{2.5}$ NAAQS (82 FR 57689; December 7, 2017).

In addition to regional emissions reductions and plant closures, additional local reductions to both direct $PM_{2.5}$ and SO_2 emissions are expected to occur and should contribute to further declines in Allegheny County's $PM_{2.5}$ monitor concentrations. For example, significant SO_2 reductions have recently occurred at US Steel's integrated steel mill facilities in southern Allegheny County as part of a 1-hr SO_2 NAAQS SIP.[9] Reductions are largely due to declining sulfur content in the Clairton Coke Work's coke oven gas (COG). Because this COG is burned at U.S. Steel's Clairton Coke Works, Irvin Mill, and Edgar Thompson Steel Mill, these reductions in sulfur content should contribute to much lower $PM_{2.5}$ precursor emissions in the immediate future. The Allegheny SO_2 SIP also projects lower SO_2 emissions resulting from vehicle fuel standards, reductions in general emissions due to declining population in the Greater Pittsburgh region, and several shutdowns of significant sources of emissions in Allegheny County.

EPA modeling projections, the recent downward trend in local and upwind emissions reductions, the expected continued downward trend in emissions between 2017 and 2021, and the downward trend in monitored $PM_{2.5}$ concentrations all indicate that the Liberty monitor will attain and be able to maintain the 2012 annual $PM_{2.5}$ NAAQS by 2021. *See* proposed approval of the Ohio Infrastructure SIP (82 FR 57689).

As noted in the 2016 memorandum, several states have had recent data-quality issues identified as part of the $PM_{2.5}$ designations process. In particular, some ambient $PM_{2.5}$ data for certain time periods between 2009 and 2013 in Florida, Illinois, Idaho, Tennessee, and Kentucky did not meet all data-quality requirements under 40 CFR part 50, appendix L. The lack of data means that the relevant areas in those states could potentially be in nonattainment or be maintenance receptors in 2021. However, as mentioned above, EPA's analysis for the 2011 CSAPR rulemaking with respect to the 2006 $PM_{2.5}$ NAAQS determined that Connecticut's impact to all these downwind receptors would be well below the 1% contribution threshold for this NAAQS. That conclusion informs the analysis of Connecticut's contributions for purposes of the 2012 $PM_{2.5}$ NAAQS as well. Given this, and the fact, discussed below, that the state's $PM_{2.5}$ design values for all ambient monitors have declined since 2009–2013, EPA concludes that it is highly unlikely that Connecticut significantly contributes to nonattainment or interferes with maintenance of the 2012 $PM_{2.5}$ NAAQS in areas with data-quality issues.[10]

Additional information in Connecticut's 2015 SIP submission corroborates EPA's proposed conclusion that Connecticut's SIP meets its Good Neighbor obligations. First, Connecticut's emissions are decreasing, as indicated in a technical analysis of the state's interstate transport of pollution relative to the 2012 annual $PM_{2.5}$ NAAQS, which was included in the 2015 submittal. The technical analysis includes Connecticut's 2014 $PM_{2.5}$ design values; design-value trends over the last decade for Connecticut and the nearby states of New York, New Jersey, Massachusetts, and Rhode Island; as well as other factors such as meteorology and emissions projections. Design values for Connecticut and nearby states have shown a declining trend and have remained in compliance with the 2012 $PM_{2.5}$ NAAQS since 2011. Emissions projections show continuing

[9] *http://www.achd.net/air/pubs/SIPs/SO2_2010_NAAQS_SIP_9-14-2017.pdf.*

[10] Connecticut's $PM_{2.5}$ design values for all ambient monitors from 2004–2006 through 2013–2015 are available on Table 6 of the 2015 Design Value Report at *https://19january2017snapshot.epa.gov/air-trends/air-quality-design-values_.html.*

maintenance of the 2012 $PM_{2.5}$ NAAQS in Connecticut and the nearby states. Connecticut's technical analysis also refers to emissions projections through 2025 for the southwestern portion of Connection, the area that historically has had the highest monitored $PM_{2.5}$ levels. These projections were part of the state's 10-year (ending in 2025) maintenance plan for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS that was approved by EPA on September 24, 2013. *See* 78 FR 58467. In southwestern Connecticut, emissions of $PM_{2.5}$, NO_X and SO_2 were projected to decrease by 22%, 52% and 43%, respectively, between 2007 and 2025, and similar levels of reductions were projected for the rest of the state. This technical analysis is supported by additional indications that the state's air quality is improving and emissions are falling, including certified annual $PM_{2.5}$ monitor values recorded since Connecticut's 2015 submittal, with the highest value in 2015 being 9.9 $\mu g/m^3$ at a monitor in Hartford and the highest value in 2016 being 9.4 $\mu g/m^3$ at a monitor in Bridgeport, with further statewide declines indicated by 2017 preliminary results.[11] In addition, as reported in EPA's Clean Air Markets Program database, actual ozone-season NO_X emissions from EGUs in Connecticut from 2011 through 2017 fell from 858 to 430 tons, a 50-percent drop.

Second, Connecticut's sources are well-controlled. Connecticut's 2015 submission indicates that the SIP contains the following major requirements related to the interstate transport of pollution: RCSA section 22a–174–2a (NSR program, including notification of nearby states of major source permits and modifications), RCSA section 22a–174–3a (PSD and NSR requirements, including modeling to that ensure new and modified sources do not cause or contribute to PSD or NAAQS issues in nearby states). These rules were approved by EPA on July 24, 2015, and became effective on September 22, 2015. *See* 80 FR 43960.

It should also be noted that Connecticut is not in the CSAPR program because EPA analyses show that the state no longer emits ozone-season NO_X at a level that contributes significantly to non-attainment or interferes with maintenance of the 1997 and 2006 $PM_{2.5}$ NAAQS in any other state.

For the reasons explained herein, EPA agrees with Connecticut's conclusions and proposes to determine that Connecticut will not significantly contribute to nonattainment or interfere with maintenance of the 2006 or 2012 $PM_{2.5}$ NAAQS in any other state. Therefore, EPA is proposing to approve the August 2011 and December 2015 infrastructure SIP submissions from Connecticut addressing prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2006 and 2012 $PM_{2.5}$ NAAQS, respectively.

Sub-Element 2: Section 110(a)(2)(D)(i)(II)—PSD (Prong 3)

To prevent significant deterioration of air quality, this sub-element requires SIPs to include provisions that prohibit any source or other type of emissions activity in one state from interfering with measures that are required in any other state's SIP under Part C of the CAA. One way for a state to meet this requirement, specifically with respect to in-state sources and pollutants that are subject to PSD permitting, is through a comprehensive PSD permitting program that applies to all regulated NSR pollutants and that satisfies the requirements of EPA's PSD implementation rules. For in-state sources not subject to PSD, this requirement can be satisfied through an approved NNSR program with respect to any previous NAAQS.

Connecticut updated RCSA Section 22a–174–3a(k) and 3a(i) effective April 2014. EPA approved these changes on July 24, 2015 (80 FR 43960). These regulations contain provisions for how the state must treat and control sources in nonattainment areas, consistent with 40 CFR 51.165, or appendix S to 40 CFR 51.

Sub-Element 3: Section 110(a)(2)(D)(i)(II)—Visibility Protection (Prong 4)

With regard to applicable requirements for visibility protection of section 110(a)(2)(D)(i)(II), states are subject to visibility and regional-haze program requirements under part C of the CAA (which includes sections 169A and 169B). The 2009 guidance, 2011 guidance, and 2013 guidance recommend that these requirements can be satisfied by an approved SIP addressing reasonably attributable visibility impairment, if required, or an approved SIP addressing regional haze. A fully approved regional haze SIP meeting the requirements of 40 CFR 51.308 will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility. Connecticut's Regional Haze SIP was approved by EPA on July 10, 2014 (79 FR 39322). Accordingly, EPA proposes that Connecticut has met the visibility protection requirements of 110(a)(2)(D)(i)(II) for the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 4: Section 110(a)(2)(D)(ii)—Interstate Pollution Abatement

This sub-element requires each SIP to contain provisions requiring compliance with requirements of section 126 relating to interstate pollution abatement. Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources.

EPA approved revisions to Connecticut's PSD program on July 24, 2015 (80 FR 43960), including the element pertaining to notification to neighboring states of the issuance of PSD permits. Therefore, we propose to approve Connecticut's compliance with the infrastructure SIP requirements of section 126(a) with respect to the 2012 $PM_{2.5}$ NAAQS. Connecticut has no obligations under any other provision of section 126.

Sub-Element 5: Section 110(a)(2)(D)(ii)—International Pollution Abatement

This sub-element requires each SIP to contain provisions requiring compliance with the applicable requirements of section 115 relating to international pollution abatement. Connecticut does not have any pending obligations under section 115 for the 2012 $PM_{2.5}$ NAAQS. Therefore, EPA is proposing that Connecticut has met the applicable infrastructure SIP requirements of section 110(a)(2)(D)(ii) related to section 115 of the CAA (international pollution abatement) for the 2012 $PM_{2.5}$ NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources

This section requires each state to provide for personnel, funding, and legal authority under state law to carry out its SIP and related issues. In addition, Section 110(a)(2)(E)(ii) requires each state to comply with the requirements with respect to state boards under section 128. Finally, section 110(a)(2)(E)(iii) requires that, where a state relies upon local or regional governments or agencies for the implementation of its SIP provisions, the state retain responsibility for ensuring implementation of SIP

[11] 24-hour and annual $PM_{2.5}$ monitor values for individual monitoring sites throughout Connecticut are available at *https://www.epa.gov/outdoor-air-quality-data/monitor-values-report.*

obligations with respect to relevant NAAQS. However, this sub-element does not apply to this action because Connecticut does not rely upon local or regional governments or agencies for the implementation of its SIP provisions.

Sub-Element 1: Adequate Personnel, Funding, and Legal Authority Under State Law To Carry Out Its SIP, and Related Issues

Connecticut, through its infrastructure SIP submittal, has documented that its air agency has authority and resources to carry out its SIP obligations. CGS § 22a–171 authorizes the CT DEEP Commissioner to enforce the state's air laws, accept and administer grants, and exercise incidental powers necessary to carry out the law. The Connecticut SIP, as originally submitted on March 3, 1972, and subsequently amended, provides additional descriptions of the organizations, staffing, funding and physical resources necessary to carry out the plan. EPA proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: State Board Requirements Under Section 128 of the CAA

Section 110(a)(2)(E) also requires each SIP to contain provisions that comply with the state board requirements of section 128 of the CAA. That provision contains two explicit requirements: (1) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (2) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.

In Connecticut, no board or body approves permits or enforcement orders; these are approved by the Commissioner of CT DEEP. Thus, Connecticut is subject only to the requirements of paragraph (a)(2) of section 128 of the CAA. Infrastructure SIPs submitted by Connecticut include descriptions of conflict-of-interest provisions in CGS § 1–85, which applies to all state employees and public officials. Section 1–85 prevents the Commissioner from acting on a matter in which the Commissioner has an interest that is ''in substantial conflict with the proper discharge of his duties or employment in the public interest and of his responsibilities as prescribed in the laws of'' Connecticut.

Connecticut submitted CGS § 1–85 for incorporation into the SIP on December 28, 2012, with its infrastructure SIP for the 2008 ozone NAAQS. We approved this statute into the Connecticut SIP on June 3, 2016 (81 FR 35636). Therefore, Connecticut has met the applicable infrastructure SIP requirements for this section of 110(a)(2)(E) for the 2012 $PM_{2.5}$ NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each plan shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to this chapter. Lastly, the reports shall be available at reasonable times for public inspection.

CGS § 22a–6(a)(5) authorizes the Commissioner to enter at all reasonable times, any public or private property (except a private residence) to investigate possible violations of any statute, regulation, order or permit. Additionally, CGS § 22a–174 authorizes the Commissioner to require periodic inspection of sources of air pollution and to require any person to maintain, and to submit to CT DEEP, certain records relating to air pollution or to the operation of facilities designed to abate air pollution. For monitoring possible air violations, CT DEEP implements RCSA § 22a–174–4 (Source monitoring, record keeping and reporting) to require the installation, maintenance, and use of emissions monitoring devices and to require periodic reporting to the Commissioner of the nature and extent of the emissions. Section 22a–174–4 has been approved into the SIP. *See* 79 FR 41427 (July 16, 2014). Additionally, CT DEEP implements RCSA § 22a–175–5 (Methods for sampling, emissions testing, sample analysis, and reporting), which provides, among other things, specific test methods to be used to demonstrate compliance with various aspects of Connecticut's air regulations, and this rule has also been approved into the SIP. *See* 46 FR 43418 (December 19, 1980). Furthermore, under RCSA § 22a–174–10 (Public availability of information) emissions data are to be available to the public and are not entitled to protection as a trade secret. *See* 37 FR 23085 (October 28, 1972). EPA recognizes that Connecticut routinely collects information on air emissions from its industrial sources and makes this information available to the public. In addition, RCSA § 22a–174–10 requires that emission data made public by CT DEEP shall be presented in such a manner as to show the relationship (or correlation) between measured emissions and the applicable emission limitations or standards, as required by CAA § 110(a)(2)(F)(iii).

Therefore, EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2012 $PM_{2.5}$ NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

This section requires that a plan provide for state authority analogous to that provided to the EPA Administrator in section 303 of the CAA, and adequate contingency plans to implement such authority. Section 303 of the CAA provides authority to the EPA Administrator to seek a court order to restrain any source from causing or contributing to emissions that present an ''imminent and substantial endangerment to public health or welfare, or the environment.'' Section 303 further authorizes the Administrator to issue ''such orders as may be necessary to protect public health or welfare or the environment'' in the event that ''it is not practicable to assure prompt protection . . . by commencement of such civil action.''

Connecticut's submittal notes that CGS § 22a–181 (Emergency action) authorizes the Commissioner of the CT DEEP to issue an order requiring any person to immediately reduce or discontinue air pollution as required to protect the public health or safety. In addition, in a letter dated August 5, 2015, Connecticut specified that CGS § 22a–7 grants the Commissioner the authority, whenever he finds ''that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity which, in his judgment, will result in or is likely to result in imminent and substantial damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapter . . . 446c [Air Pollution Control] . . . [to] issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity.'' This section further provides the Commissioner with the authority to seek a court ''to enjoin

any person from violating a cease and desist order issued pursuant to [§ 22a–7] and to compel compliance with such order.''

We propose to find that RCSA § 22a–174–6, along with CGS § 22a–181, provide for authority comparable to that in section 303.

Section 110(a)(2)(G) requires a state to submit for EPA approval a contingency plan to implement the air agency's emergency episode authority for any Air Quality Control Region (AQCR) within the state that is classified as Priority I, IA, or II for certain pollutants, *See* 40 CFR 51.150. This requirement may be satisfied by submitting a plan that meets the applicable requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) (''Prevention of Air Pollution Emergency Episodes'') for the relevant NAAQS, and, indeed, Connecticut has ''*Air pollution emergency episode procedures*'' at RCSA § 22a–174–6 that EPA has previously evaluated and approved as satisfying the requirements of Section 110(a)(2)(G) in the context of SO_X and ozone. *See* 81 FR 35636 (June 3, 2016); 80 FR 54471 (Sept. 10, 2015). $PM_{2.5}$, however, is not explicitly included in the contingency plan requirements of 40 CFR part 51, subpart H, and, thus, a contingency plan satisfying the provisions of subpart H is not required. For $PM_{2.5}$, EPA's 2009 guidance recommends instead that states develop emergency episode plans for any area that has monitored and recorded 24-hour $PM_{2.5}$ levels greater than 140 μg/m^3 since 2006. EPA's review of Connecticut's certified air quality data in EPA's Air Quality System (AQS) indicates that the highest 24-hour $PM_{2.5}$ level recorded since 2006 was 57.5 μg/m^3, which was recorded at a monitor in Bridgeport on January 1, 2011. And, as noted earlier, Connecticut has general authority to order a source to reduce or discontinue air pollution as required to protect the public health or safety or the environment.

Connecticut also, as a matter of practice, posts on the internet daily forecasted ozone and fine particle levels through the EPA AirNow and EPA EnviroFlash systems. Information regarding these two systems is available on EPA's website at *www.airnow.gov.* Notices are sent out to EnviroFlash participants when levels are forecast to exceed the current 8-hour ozone or 24-hour $PM_{2.5}$ NAAQS. In addition, when levels are expected to exceed the ozone or $PM_{2.5}$ NAAQS in Connecticut, the media are alerted via a press release, and the National Weather Service (NWS) is alerted to issue an Air Quality Advisory through the normal NWS weather alert system.

Therefore, EPA proposes that Connecticut through the combination of statutes and regulations discussed above, and participation in EPA's AirNow program, has met the applicable infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2012 $PM_{2.5}$ NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires that a state's SIP provide for revision from time to time as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate.

Connecticut certifies that its SIP may be revised should EPA find that it is substantially inadequate to attain a standard or to comply with any additional requirements under the CAA and notes that CGS § 22a–174(d) grants the Commissioner all incidental powers necessary to control and prohibit air pollution. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2012 $PM_{2.5}$ NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Area Plan or Plan Revisions Under Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas. EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA takes action on part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notifications; Prevention of Significant Deterioration; Visibility Protection

The evaluation of the submission from Connecticut with respect to the requirements of CAA section 110(a)(2)(J) is described below.

Sub-Element 1: Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

CGS § 22a–171 (Duties of Commissioner of Energy and Environmental Protection) directs the Commissioner to consult with agencies of the United States, agencies of the state, political subdivisions and industries and any other affected groups in matters relating to air quality. Additionally, CGS § 22a–171, which was approved into Connecticut's SIP (81 FR 35636; June 3, 2016), directs the Commissioner to initiate and supervise state-wide programs of air pollution control education and to adopt, amend, repeal and enforce air regulations.

Furthermore, RCSA § 22a–174–2a, which has been approved into Connecticut's SIP (80 FR 43960; July 24, 2015), directs CT DEEP to notify relevant municipal officials and FLMs, among others, of tentative determinations by CT DEEP with respect to certain permits.

EPA proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 2: Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area, advise the public of health hazards associated with exceedances, and enhance public awareness of measures that can be taken to prevent exceedances and of ways in which the public can participate in regulatory and other efforts to improve air quality.

As part of the fulfillment of CGS § 22a–171 (Duties of Commissioner of Energy and Environmental Protection), Connecticut issues press releases and posts warnings on its website advising people what they can do to help prevent NAAQS exceedances and avoid adverse health effects on poor air quality days. Connecticut is also an active partner in EPA's AirNow and Enviroflash air quality alert programs. In addition, in 2014, Connecticut revised CGS § 4–168 to require that state regulations be submitted through the state's e-regulations system, thus creating an additional way for the public to access any changes to state regulations.

EPA proposes that Connecticut has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ NAAQS.

Sub-Element 3: PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Connecticut's PSD program in the context of infrastructure SIPs has already been discussed in the paragraphs addressing sections 110(a)(2)(C) and 110(a)(2)(D)(i)(II) and satisfies the requirements of EPA's PSD implementation rules.

We are proposing to approve the revisions to Connecticut's PSD program that were submitted on October 18, 2017 regarding PSD requirements to treat

NO_X as a precursor to ozone and to establish a minor source baseline date for $PM_{2.5}$ emissions. Consequently, we are proposing to approve the PSD sub-element of section 110(a)(2)(J) for the 2012 $PM_{2.5}$ NAAQS, consistent with the actions we are proposing for sections 110(a)(2)(C) and 110(a)(2)(D)(i)(II).

Sub-Element 4: Visibility Protection

With regard to the applicable requirements for visibility protection, states are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, as noted in EPA's 2013 guidance, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

To satisfy Element K, the state air agency must demonstrate that it has the authority to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant and submission of such data to EPA upon request.

In its submittal, Connecticut indicates that CGS § 22a–5 (Duties and powers of commissioner) implicitly authorizes the Commissioner of the CT DEEP to perform air quality modeling to predict effects on air quality of emissions of any NAAQS pollutant and to submit such data to EPA upon request. Connecticut reviews the potential impact of major sources consistent with 40 CFR part 51, appendix W, ''Guidelines on Air Quality Models.'' In its submittal, Connecticut also cites RCSA section 22a–174–3a(i), which authorizes the commissioner to request any owner or operator to submit an ambient air-quality impact analysis using applicable air quality models and modeling protocols approved by the commissioner. CT DEEP updated RCSA Section 22a–174–3a(i), effective April 2014, and EPA published a direct final rule approving these updates on July 24, 2015. *See* FR 80 FR 43960.

The state also collaborates with the Ozone Transport Commission (OTC) and the Mid-Atlantic Regional Air Management Association and EPA in order to perform large-scale urban air shed modeling for ozone and PM, if necessary. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2012 $PM_{2.5}$ NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate that each major stationary source pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

EPA's full approval of Connecticut's Title V program became effective on May 31, 2002. *See* 67 FR 31966 (May 13, 2002). To gain this approval, Connecticut demonstrated the ability to collect sufficient fees to run the program. CGS § 22a–174(g) directs the Commissioner of CT DEEP to require the payment of a fee sufficient to cover the reasonable cost of reviewing and acting upon an application for, and monitoring compliance with, any state or federal permit, license, registration, order, or certificate. CT DEEP implements this directive through state regulations at RCSA §§ 22a–174–26 and 22a–174–33, which contain specific requirements related to permit fees, including fees for Title V sources. EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2012 $PM_{2.5}$ NAAQS.

M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities

To satisfy Element M, states must consult with, and allow participation from, local political subdivisions affected by the SIP. Connecticut's infrastructure submittal references CGS § 4–168 (Notice prior to action on regulations), which provides a public participation process for all stakeholders that includes a minimum of a 30-day comment period and an opportunity for public hearing for all SIP-related actions.

Connecticut also notes that monthly meetings of the State Implementation Plan Revision Advisory Committee provide an additional forum for consultation and participation by the public and other stakeholders on air-quality-related topics.

EPA proposes that Connecticut has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2012 $PM_{2.5}$ NAAQS.

N. Connecticut Statute Submitted for Incorporation Into the SIP

Connecticut's December 14, 2015, infrastructure SIP submittal for the 2012 $PM_{2.5}$ NAAQS included a revision of CGS § 16a–21a, ''Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency'' (see discussion under element A), EPA is proposing to approve revisions to CGS § 16a–21a into the Connecticut SIP.

IV. Proposed Action

EPA is proposing to approve the elements of the infrastructure SIP submitted by Connecticut on December 14, 2015, for the 2012 $PM_{2.5}$, NAAQS. Specifically, EPA's proposed action regarding each infrastructure SIP requirement are contained in Table 1 below.

TABLE 1—PROPOSED ACTION ON CONNECTICUT'S INFRASTRUCTURE SIP SUBMITTAL FOR THE 2012 $PM_{2.5}$ NAAQS

Element	2012 $PM_{2.5}$
(A): Emission limits and other control measures	A
(B): Ambient air quality monitoring and data system	A
(C)1: Enforcement of SIP measures	A
(C)2: PSD program for major sources and major modifications	A
(C)3: PSD program for minor sources and minor modifications	A
(D)1: Contribute to nonattainment/interfere with maintenance of NAAQS	A
(D)2: PSD	A
(D)3: Visibility Protection	A
(D)4: Interstate Pollution Abatement	A
(D)5: International Pollution Abatement	A
(E)1: Adequate resources	A
(E)2: State boards	A
(E)3: Necessary assurances with respect to local agencies	NA
(F): Stationary source monitoring system	A
(G): Emergency power	A
(H): Future SIP revisions	A

TABLE 1—PROPOSED ACTION ON CONNECTICUT'S INFRASTRUCTURE SIP SUBMITTAL FOR THE 2012 $PM_{2.5}$ NAAQS—Continued

Element	2012 $PM_{2.5}$
(I): Nonattainment area plan or plan revisions under part D	+
(J)1: Consultation with government officials	A
(J)2: Public notification	A
(J)3: PSD	A
(J)4: Visibility protection	+
(K): Air quality modeling and data	A
(L): Permitting fees	A
(M): Consultation and participation by affected local entities	A

In the above table, the key is as follows: A, Approve. NA, Not applicable. +, Not germane to infrastructure SIPs.

EPA also is proposing to approve the transport provisions (Element (D)1 in Table 1) of Connecticut's August 2011 infrastructure SIP submittal for the 2006 $PM_{2.5}$ NAAQS. In addition, EPA is proposing to approve, and incorporate into the Connecticut SIP, the following Connecticut statute, which was included for approval in Connecticut's infrastructure SIP submittal:

Revisions to CGS § 16a–21a, Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency, effective July 1, 2015.

EPA is also proposing to approve revisions to the PSD permit program pertaining to treating NO_X as a precursor to ozone and establishing a minor source baseline date for $PM_{2.5}$.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

V. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Connecticut statute referenced in Section IV above. The EPA has made, and will continue to make, these documents generally available electronically through *https://www.regulations.gov* and at the EPA New England Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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

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

List of Subjects in 40 CFR Part 52

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

Dated: March 8, 2018.

Alexandra Dapolito Dunn,

Regional Administrator, EPA Region 1.

[FR Doc. 2018–05318 Filed 3–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0760; FRL–9975–61—Region 9]

Approval of California Air Plan Revisions, Antelope Valley Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Antelope Valley Air Quality Management District (AVAQMD) portion of the California

State Implementation Plan (SIP). This revision concerns the emissions of volatile organic compounds (VOCs) from motor vehicle assembly coating operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by April 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0760 at *http://www.regulations.gov,* or via email to Arnold Lazarus, Rulemaking Office at *lazarus.arnold@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. 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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972–3024, *lazarus.arnold@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

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I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
AVAQMD	1151.1	Motor Vehicle Assembly Coating Operations	6/20/2017	8/9/2017

On February 9, 2018, the submittal for AVAQMD Rule 1151.1 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 1151.1 in the SIP. Prior to July 1, 1997, the area regulated by the AVAQMD was contained within the South Coast Air Quality Management District (SCAQMD) boundaries. On July 1, 1997, the Antelope Valley Air Pollution Control District (AVAPCD) was created and took over responsibilities for the jurisdiction of the Los Angeles County portion of the Mojave Desert Air Basin. Rules and regulations of the SCAQMD were retained until the AVAPCD Governing Board adopted, rescinded or amended these rules. Therefore, SCAQMD Rule 1115, ''Motor Vehicle Assembly Line Coating Operations,'' adopted by SCAQMD in May 1995 and approved by the EPA in July 1995, became part of the AVAPCD SIP in July 1997. The AVAPCD subsequently rescinded SCAQMD Rule 1115 within its borders, and submitted a negative declaration to the EPA stating that no sources within its jurisdiction were covered by the rule.[1] The AVAQMD was created to replace the AVAPCD in 2002. On June 20, 2017, the AVAQMD adopted Rule 1151.1, ''Motor Vehicle Assembly Coating Operations,'' because it now has a facility that builds and paints new, heavy duty vehicles.

C. What is the purpose of the submitted rule?

VOCs contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 1151.1 was adopted to limit VOC emissions from all aspects of motor vehicle assembly coating operations. The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Additionally, SIP rules must require reasonably available control technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The AVAQMD regulates an ozone nonattainment area classified as Severe-15 for the 2008 8-hour ozone national ambient air quality standards (40 CFR 81.305). In addition, Rule 1151.1 regulates activities covered by a CTG: ''Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings'' (EPA–453/R–08–006, September 2008). Therefore, this rule must implement RACT.

Guidance and policy documents that we used to evaluate enforceability and rule stringency for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,''

[1] 65 FR 31267 (May 17, 2000).

EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. ''Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings,'' (EPA–453/R–08–006, September 2008).

B. Does the rule meet the evaluation criteria?

This rule is consistent with CAA requirements and relevant guidance regarding enforceability, RACT, and SIP revisions. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until April 18, 2018. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the AVAQMD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 2, 2018.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2018–05286 Filed 3–16–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2017–0672; FRL–9975–47—Region 8]

Approval and Promulgation of Implementation Plans; South Dakota; Regional Haze 5-Year Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve South Dakota's regional haze progress report, submitted as a revision to its State Implementation Plan (SIP) by the South Dakota Department of Environment and Natural Resources (DENR). South Dakota's SIP revision addresses requirements of the Clean Air Act (CAA) and the EPA's rules that require states to submit periodic reports describing progress toward reasonable progress goals established for regional haze and a determination of the adequacy of the state's existing regional haze SIP. South Dakota's progress report explains that South Dakota has implemented the measures in the regional haze SIP due to be in place by the date of the progress report and that visibility in mandatory federal Class I areas affected by emissions from South Dakota sources is improving. The EPA is proposing approval of South Dakota's determination that the State's regional haze SIP is adequate to meet Reasonable Progress Goals (RPGs) for the first implementation period covering through 2018 and requires no substantive revision at this time.

DATES: Comments must be received on or before April 18, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2017–0672 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to 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: Kate Gregory, Air Program, Environmental Protection Agency, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6175, or by email at *gregory.kate@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

States are required to submit progress reports that evaluate progress towards the RPGs for each mandatory federal Class I area [1] (Class I area) within the state and in each Class I area outside the state that may be affected by emissions from within the state. 40 CFR 51.308(g). In addition, the provisions of 40 CFR 51.308(h) require states to submit, at the same time as the 40 CFR 51.308(g) progress report, a determination of the adequacy of the state's existing regional haze SIP. The first progress report must take the form of a SIP revision and is due 5 years after submittal of the initial regional haze SIP. On January 21, 2011, South Dakota submitted the State's first regional haze SIP in accordance with 40 CFR 51.308.[2]

On January 27, 2016, South Dakota submitted as a revision to its SIP a progress report which detailed the progress made in the first planning period toward implementation of the Long Term Strategy (LTS) outlined in the 2011 regional haze SIP submittal, the visibility improvement measured at Class I areas affected by emissions from South Dakota sources, and a determination of the adequacy of the State's existing regional haze SIP. The State provided public notice for comment on the Progress Report from December 22, 2015, to January 20, 2015, and received no comment. The EPA is proposing to approve South Dakota's January 27, 2016 SIP submittal.

II. EPA's Evaluation of South Dakota's Progress Report and Adequacy Determination

A. Regional Haze Progress Report

This section includes the EPA's analysis of South Dakota's Progress Report and an explanation of the basis for the Agency's proposed approval. The State's Progress Report evaluates the most recent visibility results against the 2018 Uniform Rate of Progress Goals (URP Goals), instead of the 2018 RPGs specified in the regional haze regulations. South Dakota's Progress Report explains they used the URP Goals because ''South Dakota's Class I areas have exceeded the reasonable progress goals that were established'' and ''[w]ith emissions reductions that are expected from the addition of BART controls at Big Stone and other facilities throughout the region, DENR expects that the improvements will continue and South Dakota's Class I areas will meet the 2018 uniform rate of progress goals.'' [3] Since the regional haze regulations require an evaluation of visibility progress against the 2018 RPGs, our evaluation of South Dakota's SIP focuses on the RPGs.

1. Control Measures

In its Progress Report, South Dakota summarizes the emissions reduction measures that were relied upon by South Dakota in its regional haze plan for ensuring reasonable progress at the two Class I areas within the State: Badlands and Wind Cave National Parks. The State's regional haze SIP established reasonable progress goals for 2018.[4] The emission reduction measures include applicable federal programs (*e.g.,* mobile source rules), various existing South Dakota air quality rules, and a plan to ''investigate the impacts of a smoke management plan'' to determine what level of fires and what best management practices should be included in the plan, with the results adopted into the SIP as part of the LTS.[5] South Dakota also reviewed the status of Best Available Retrofit Technology (BART) requirements for the sole BART-subject source in the state: The Big Stone I coal-fired power plant, owned by Montana-Dakota Utilities Company, NorthWestern Energy, and Otter Tail Power Company, located near Big Stone City, South Dakota.

The Progress Report presents the extensive information collected and analyzed to investigate the impacts of a smoke management plan.[6] In reviewing ''the annual values for the aerosol species at the Wind Cave National Park'' the State ''was concerned about the extremely high value for particulate organic mass and elemental carbon in 2010.'' The report further explained that ''[d]ue to the fact that particulate organic mass and elemental carbons are typically associated with fire, the DENR researched a fire database'' and found that ''[i]n 2010, the National Park Service conducted a 5,500 acre prescribed fire at the Wind Cave National Park just a mile from the monitoring site.'' The Progress Report explains that this fire created two of the 20% most impaired days at the park and the main contributor was particulate organic mass.'' [7]

In analyzing changes in nitrogen oxide emissions from 2002 through 2011, the Report explained that ''[t]he only real increase in nitrogen oxide emissions was from anthropogenic fires with an increase of 970 tons per year.'' [8] Notably, during the same timeframe, the Report noted that ''sulfur dioxide emissions in South Dakota decreased by just less than 8,500 tons per year'' and that ''[t]he largest decreases were seen in anthropogenic off-road mobile and point sources with a small decrease in natural fire.'' [9] The State also looked at primary organic aerosol emissions that ''are produced by both anthropogenic and natural sources but are most commonly associated with fire,'' and found that for 2002–2011 timeframe ''[t]he largest decrease was seen in natural fires at just fewer than 4,000 tons.'' [10] The Report included information on elemental carbon emissions, noted that natural sources of those emissions include fire. The State explained that while there was a small decrease in natural fire over the 2002–2011 timeframe, the data showed minor

[1] 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.

[2] 77 FR 24845 (April 26, 2012). EPA fully approved South Dakota's regional haze SIP submittal addressing the requirements of the first implementation period for regional haze.

[3] South Dakota Progress Report, Appendix B, p. B–2.

[4] 40 CFR 52.2170(c)(1). 77 FR 24845, 25855 (April 26, 2012) (final RH SIP approving South Dakota's Regional Haze SIP, Amendment, Section 7.2, Table 7–1, p. 106). 76 FR 76646, 76664 (December 8, 2011) (proposed RH SIP approval, Tables 20 and 21).

[5] South Dakota's Regional Haze State Implementation Plan: 5-Year Progress Report, p. 6 (''South Dakota Progress Report''). South Dakota SIP. pp. 121–122 (January 18, 2011 submittal).

[6] South Dakota Progress Report, pp. 9–12, 19–21, 24–27, 29–33, 37, 40–42.

[7] South Dakota Progress Report, p. 11. The results of this fire are discussed in more detail in Sections 3.5 and 3.6 of the Report.

[8] South Dakota Progress Report, pp. 17–18.

[9] South Dakota Progress Report, p. 17.

[10] South Dakota Progress Report, p. 19.

increases in anthropogenic fire.[11] During the same timeframe fine soil emissions decreased, which included decreases in natural fire.[12] South Dakota also included information in the Report on coarse soil emissions over the 2002–2011 timeframe, and while there was an increase of over 57,000 tons during that timeframe, anthropogenic fire contributed to only 223 tons of those emissions.[13] Additionally, while the Report shows ammonia emissions increased over the 2002–2011 timeframe by ''just over 9,500 tons,'' emissions from natural fire decreased.[14] Overall nitrogen dioxide emissions and natural biogenic emissions decreased, however, there were small increases from anthropogenic fires.[15] The Report shows both volatile organic compound (VOC) emissions and carbon monoxide (CO) emissions decreasing over the 2002–2011 timeframe, despite increases in anthropogenic fire at 9,551 tons and 38,155 tons respectively.[16]

In its Progress Report, South Dakota provides Interagency Monitoring of Protected Visual Environments (IMPROVE) data which shows the impacts of prescribed fires conducted by the National Park Service (NPS) at Wind Cave National Park in 2009 and 2010.[17] The Report includes two examples of the IMPROVE data that show that the NPS prescribed fires on both September 3, 2009, and October 20, 2010, contributed high levels of both particulate organic mass and elemental carbon on both days.[18] Additionally, the Report provides monitoring data which shows that particulate organic matter is ''the second largest contributor [sic?] to visibility extinction at the Badlands National Park during the 20% most impaired days'' and that particulate matter (PM) is typically the product of fire.[19] South Dakota also provides analysis which shows particulate mass levels on the 20 percent most impaired days without the impacts from the NPS prescribed fires. This analysis shows that ''if Wind Cave National Park would not have experienced the prescribed fires by Federal Land Managers, the Wind Cave's National Park's particulate organic mass levels would be below the Uniform Glide Slope similar to the Badlands National Park Uniform Glide Slope for particulate organic mass''.[20] Additionally, the State explained that while it was preparing the Progress Report, more prescribed fire events occurred in 2015 that will likely show impacts to the Class I areas.[21] Finally, in its Progress Report, South Dakota explains that ''DENR and Federal Land Managers in South Dakota have improved coordination and communications over the past few years and plan to continue that effort to help mitigate the impacts of prescribed fires'' at Wind Cave and Badlands National Parks.[22]

In its Progress Report, South Dakota provides an update on the status of the BART determination at the Big Stone I power plant and the subsequent action taken given the determination. The BART determination, which was finalized for Big Stone I on December 7, 2010, was approved by the EPA,[23] and includes a selective catalytic reduction (SCR) system and separated over-fire-air (SOFA) installed in the power plant's main boiler for nitrogen oxide (NO_X) control, a dry flue gas desulfurization (FGD) system for sulfur dioxide (SO_2) control, and a fabric filter system for PM control.[24] In the Progress Report, the State describes the installation and operation of the required BART controls by the end of 2015, as required by the State's Regional Haze Implementation Plan.[25] The EPA has confirmed installation and operation of the pollution controls the State describes in its Progress Report, and has confirmed that the emissions limits in the SIP were met by the required date of June 28, 2017.[26]

As shown in Table 1, BART controls at Big Stone I have resulted in a substantial decrease in both SO_2 and NO_X emissions (a 94 and 91 percent decrease in emissions from 2013 2014 levels, respectively).[27] These are larger reductions in emissions than the State estimated in the Progress Report and represent a clear downward trend since BART controls were installed and operational in late 2015.[28]

TABLE 1—BIG STONE I POWER PLANT EMISSIONS PRE AND POST BART CONTROL

[Actual, average tons][29]

Calendar year	NO_X (actual, average tons)	SO_2 (actual, average tons)
2000–2004 (Baseline)	13,090.59	16,270.48
2013, 2014 (pre BART)	10,860.11	14,592.54
% Emissions Reduction (baseline vs. pre BART)	17%	10%
2016, 2017 (post BART)	973.18	836.33
% Emissions Reduction (pre BART vs. post BART)	91%	94%

EPA proposes to find that South Dakota has adequately addressed the applicable provisions under 40 CFR 51.308(g)(1) regarding the implementation status of control measures because the State's Report provides documentation of the implementation of measures within South Dakota, including BART at the sole BART-subject source in the State and the State's efforts to develop the smoke management plan.

2. Emissions Reductions

As discussed above, South Dakota focused its assessment in its regional haze plan and Progress Report on emissions reductions from pollution control strategies that were

[11] South Dakota Progress Report, pp. 20–21.

[12] South Dakota Progress Report, p. 22.

[13] South Dakota Progress Report, p. 23.

[14] South Dakota Progress Report, p. 24.

[15] South Dakota Progress Report, p. 24.

[16] South Dakota Progress Report, pp. 25–27.

[17] South Dakota Progress Report, p. 29.

[18] South Dakota Progress Report, Table 3–28, p. 31 and Table 3–29, p. 33.

[19] South Dakota Progress Report, Table 3–10, pp. 35, 37.

[20] South Dakota Progress Report, p. 40 and Figures 3–22, 3–23, p. 41.

[21] South Dakota Progress Report, p. 33.

[22] South Dakota Progress Report, pp. 41–42, Appendix B, pp. B–2—B–3. At the suggestion of the National Park Service, the DENR also looked at the Fire Emissions Tracking System and noted that it may be a useful tool going forward as the DENR continues to track prescribed fires and their impacts on the Class I areas.

[23] 76 FR 24845 (April 26, 2012).

[24] 37 SDR 111 (December 7, 2010).

[25] 77 FR 24845 (April 26, 2012).

[26] Big Stone Annual Emissions 2000–2017, information available in the docket.

[27] Big Stone Annual Emissions 2000–2017.

[28] South Dakota Progress Report, p. 7.

[29] Big Stone Annual Emissions 2000–2017.

implemented at the Big Stone I power plant by the end of calendar year 2015. The EPA has confirmed installation and operation of the pollution controls the State describes in their Progress Report. In its Progress Report, South Dakota provides a comparison of Big Stone I's actual SO_2 and NO_X emission rates to BART limits for the pollutants 2010–2014.[30] Additionally, South Dakota provides statewide SO_2, NO_X and PM (fine and course) emissions data (among other pollutants) from Western Regional Air Partnership (WRAP) emissions inventories.[31] The WRAP data shows that there were decreases in emissions of SO_2, NO_X and PM (fine and course) over the time period (*i.e.,* 2002, 2008, 2011) of the three emissions inventories listed (Plan02d, 2008 West Jump and 2011WAQDW).

The EPA proposes to find that South Dakota has adequately addressed the applicable provisions of 40 CFR 51.308(g)(2) regarding emissions reductions achieved because the State identifies emissions reductions for pollutants SO_2, NO_X and PM (fine and course) and presents sufficient information and discussion regarding emissions trends during this period.

3. Visibility Conditions

In its Progress Report, South Dakota provides information on visibility conditions for the Class I areas within its borders. The Progress Report addressed current visibility conditions and the difference between current visibility conditions and baseline visibility conditions, expressed in terms of 5-year averages of these annual values, with values for the most impaired, least impaired and/or clearest days. The period for calculating current visibility conditions is the most recent 5-year period preceding the required date of the progress report for which data were available as of a date 6 months preceding the required date of the progress report.

South Dakota's Progress Report provides figures with visibility monitoring data for the two Class I areas within the State: Badlands and Wind Cave National Parks. South Dakota reported current visibility conditions for both the 2007–2011 and 2009–2013 5-year time periods and used the 2000–2004 baseline period for its Class I areas.[32] Table 2, below, shows the visibility conditions for both the 2007–2011 and 2009–2013 5-year time periods, the difference between these current visibility conditions and baseline visibility conditions, and the 2018 RPGs.

TABLE 2—BASELINE VISIBILITY, CURRENT VISIBILITY, VISIBILITY CHANGES, AND 2018 RPGS IN SOUTH DAKOTA'S CLASS I AREAS

[Deciviews]

Class I area	Baseline (2000–2004)	Current (2007–2011)	Difference (baseline vs. current)	More current (2009–2013)	Difference (current vs. more current)	Difference (baseline vs. more current)	SD 2018 RPG
20% Worst Days							
Badlands National Park	17.1	16.3	−0.8	15.7	−0.6	−1.4	[33] 16.30
20% Best Days							
Badlands National Park	6.9	6.5	−0.4	5.8	−0.7	−1.1	[34] 6.64
20% Worst Days							
Wind Cave National Park	15.8	14.9	−0.9	14.1	−0.8	−1.7	[35] 15.28
20% Best Days							
Wind Cave National Park	5.1	4.4	−0.7	3.9	−0.5	−1.2	[36] 5.02

As shown in Table 2, both Badlands and Wind Cave National Parks saw an improvement in visibility between baseline and the 2007–2011 and 2009–2013 time periods.[37] South Dakota also reported 20 percent worst day and 20 percent best day visibility data for both Badlands and Wind Cave National Parks from 2005–2009 and 2008–2012 for each year in terms of 5-year averages.[38] This data shows an improvement in visibility at both class 1 areas on the 20 percent

[30] South Dakota Progress Report, Table 3–1, p. 8.

[31] South Dakota Progress Report, Table 3–2, p. 8. The WRAP's inventories were developed using EPA's National Emissions Inventory (NEI) and other sources (*https://www.wrapair2.org/emissions.aspx*). The NEI is based primarily upon data provided by state, local, and tribal air agencies (including South Dakota) for sources in their jurisdiction and supplemented by data developed by the EPA.

[32] For the first regional haze plans, ''baseline'' conditions were represented by the 2000–2004 time period. *See* 64 FR 35730 (July 1, 1999).

[33] 76 FR 76646, 76664 (December 8, 2011) (''South Dakota's reasonable progress goals for Badlands for 2018 for the 20% worst days represent a 0.84 deciviews improvement over baseline. . . '' Table 20. 77 FR 24845, 25855 (April 26, 2012) SD SIP pp. 105–106, (September 19, 2011) (''DENR relied on the [WRAP's] results of the CMAQ modeling in determining the reasonable progress achieved by South Dakota surrounding states, and federal regulations in South Dakota's Class I areas.'') South Dakota's SIP is included in the docket for this action).

[34] 76 FR 76646, 76664 (December 8, 2011) (Table 21). 77 FR 24845, 24855 (April 26, 2012).

[35] 76 FR 76646, 76664 (December 8, 2011) (South Dakota's ''. . . reasonable progress goals for Wind Cave for 2018 represent a 0.56 deciviews improvement over baseline.'' Table 20. 77 FR 24845, 24855 (April 26, 2012).

[36] 76 FR 76646, 76664 (December 8, 2011) (Table 21). 77 FR 24845, 24855 (April 26, 2012).

[37] South Dakota Progress Report, Table 3–17 and Table 3–18, p. 16.

[38] South Dakota Progress Report, Table 3–17 and Table 3–18, p. 16.

best days from 2005–2009 and on the 20 percent worst days from 2008–2012.

The EPA proposes to find that South Dakota has adequately addressed the applicable provisions under 40 CFR 51.308(g)(3) regarding assessment of visibility conditions because the State provided baseline visibility conditions (2000–2004), current conditions based on the most recently available visibility monitoring data available at the time of Progress Report development, the difference between these current sets of visibility conditions and baseline visibility conditions, and the change in visibility impairment from 2009–2013.

4. Emissions Tracking

In its Progress Report, South Dakota presents data from a statewide emissions inventory for 2011 (2011WAQDW) and compares this data to the baseline emissions inventory for 2002 (Plan02d).[39] The pollutants inventoried include SO_2, NO_X, Primary Organic Aerosols (POA), elemental carbon (EC), $PM_{2.5}$ (fine), PM_{10} (coarse), NH_3, VOCs and carbon monoxide (CO). The emissions inventories include the following source classifications: Point; area; on-road mobile; off-road mobile; area oil and gas; fugitive and road dust; anthropogenic fire; natural fire; biogenic and wind-blown dust from both anthropogenic and natural sources. Table 3 presents the 2002 and 2011 statewide emission inventories, and includes emissions from Big Stone I.

Overall, as the table shows, South Dakota's emissions that affect visibility were reduced in all sectors for all pollutants, except for POA and NH_3. Compared to the 2002 emission inventory South Dakota used to model haze (Plan02d), emissions in 2011 (2011WAQDW) were reduced by 38 percent for SO_2, 48 percent for NO_X, 4 percent for $PM_{2.5}$ and 9 percent for PM_{10}, respectively. There were slight increases in both POA and NH_3 as can be seen in Table 3.[40] [41] Furthermore, the State provides actual SO_2 and NO_X emissions from Big Stone I, which demonstrates that emissions of both pollutants are trending lower per Table 1 above.[42]

TABLE 3—CHANGES IN SOUTH DAKOTA TOTAL EMISSIONS, STATEWIDE

[Tons per year]

Pollutant (all sources)	2002 (Plan02d) and RH SIP [43]	2011 (2011WAQDW)	Difference
SO_2	22,076	13,618	–8,458
NO_X	146,764	75,560	–71,204
$PM_{2.5}$	82,414	79,058	–3,356
PM_{10}	615,345	557,508	–57,837
POA	9,168	9,563	395
NH_3	120,406	129,972	9,566

The EPA is proposing to find that South Dakota adequately addressed the provisions of 40 CFR 51.308(g)(4) regarding emissions tracking because the State compared the most recent updated emission inventory data available at the time of Progress Report development with the baseline emissions inventory used in the modeling for the regional haze plan.

5. Assessment of Changes Impeding Visibility Progress

South Dakota also provided an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred, which included data collected during the years when there were prescribed fires that may have impeded progress towards reducing emissions or improving visibility.[44] South Dakota documented that ammonium sulfate continues to be the biggest single contributor to regional haze for the Badlands National Park Class I area in the State.[45]

South Dakota also determined that particulate matter contributes the most to visibility impairment at Wind Cave National Park.[46] Additionally, the State presented data that shows that the prescribed fires at Wind Cave National Park conducted by the National Park Service, contributed to high levels of PM at the Class I area and, subsequently, the 20 percent most impaired days at the park in 2009 and 2010, respectively.[47] Even with the impacts from prescribed fires, the State's most current visibility assessments shows they are on track to meet the 2018 RPGs.

Assessment of South Dakota's contribution to haze in Class I areas outside of the State has shown that South Dakota emissions have, or may reasonably be expected to have, impacts on Class I areas in Minnesota, Montana, Wyoming and North Dakota.[48] In its Progress Report, the State references the initial Regional Haze SIP and BART analysis for Big Stone I, which indicates Big Stone power plant is the only facility that impacts Class I areas outside of South Dakota.[49] The BART controls installed and operational in late 2015 at Big Stone decreased NO_X and SO_2 emissions by 91 and 94 percent, respectively, which is a significant downward trend in these pollutants post BART.[50] Based on these findings, the EPA proposes to approve the State's conclusion that there have been no significant changes in emissions of

[39] WRAP Plan02d represents the State's baseline year (2002) emissions inventory. This emissions inventory was developed for use in the State's original Regional Haze SIP. *See* 77 FR 24845 (April 26, 2012). The 2011WAQDW emissions inventory is considered the most current inventory for the purposes of this element and was derived from the WRAP's 2011Western Air Quality Data Warehouse project for South Dakota.

[40] South Dakota Progress Report, Tables 3–19, 3–20, 3–21, 3–23, 3–24, 3–25, pp. 17–24.

[41] Many important changes in emissions inventory methodology occurred between 2007 or 2008 and the most current emissions inventory data presented by the State (2011WAQDW). One methodology change was the reclassification of some off-road mobile sources in the area source category, which may have resulted in the increase in NH_3 and POA in the above comparison rather than an increase in actual emissions of these pollutants.

[42] South Dakota Progress Report, Table 3–1.

[43] 76 FR 76666, 76667, 76668 (December 8, 2011).

[44] South Dakota Progress Report, Figures 3–14, 3–15, p. 32, Table 3–29, p. 33.

[45] South Dakota Progress Report, pp. 9–11.

[46] South Dakota Progress Report, Table 3–10 and p. 29.

[47] South Dakota Progress Report, Tables 3–28 and 3–29, pp. 31, 33.

[48] 76 FR 76651 (December 8, 2011).

[49] South Dakota Progress Report, Appendix B, p. B–1.

[50] Big Stone Annual Emissions 2000–2017.

visibility-impairing pollutants that have limited or impeded progress in reducing emissions and improving visibility in Class I areas impacted by the State's sources.

The EPA proposes to find that South Dakota has adequately addressed the provisions of 40 CFR 51.308(g)(5) regarding an assessment of significant changes in anthropogenic emissions. The EPA proposes to agree with South Dakota's conclusion that there have been no significant changes in emissions of visibility-impairing pollutants which have limited or impeded progress in reducing emissions and improving visibility in Class I areas impacted by the State's sources.

6. Assessment of Current Implementation Plan Elements and Strategies

In its Progress Report, South Dakota acknowledges the requirements of 40 CFR 51.308(g)(5) to discuss whether the current implementation plan elements and strategies are sufficient to enable the State, or other states with Class I areas affected by emissions from the State, to meet all established reasonable progress goals.[51] As seen in Table 2, South Dakota's visibility assessment using the most current information available (2009–2013) shows that it is meeting the 2018 RPGs at both national parks, Badlands National Park 15.70 dv (current) versus 16.30 dv (2018 RPG) and Wind Cave National Park 14.10 dv (current) versus 15.28 dv (2018 RPG). The State also includes information regarding the 2018 URP Goals, but since those goals are not part of the 5-year assessment regulations, we do not include that information. The State concludes that no substantive revisions to the existing regional haze plan are necessary as the State is exceeding the 2018 RPGs for Badlands and Wind Cave National Parks.

For Badlands National Park, the State anticipates that the 2018 visibility data will be lower than what was reported for the most recent data available because BART was fully implemented at Big Stone I by 2015. The reductions from Big Stone are significant and occurred after the most recent data included in the State's SIP. Second, the State explains that BART controls will be completed elsewhere throughout the region after 2013 and by 2018.[52]

Based on these findings, the EPA proposes to approve the State's conclusion that visibility at Badlands National Park is anticipated to meet or exceed the RPG for 2018.

For Wind Cave National Park, the State's visibility assessment in Table 2 shows that the State is currently meeting the 2018 RPG. Additionally, the emissions reductions from Big Stone I are significant and occurred after the most recent visibility data available. The State expects additional improvements in visibility from these reductions. The State's report concludes, that the current implementation plan is meeting the ''reasonable progress goals.'' [53] Although the State's visibility assessment demonstrates that it is meeting the 2018 RPGs, the State explains that emission reductions from Big Stone I are significant and occurred after the most recent visibility data was available.

The State's SIP explains that particulate organic mass level is the number one contributor to visibility degradation at Wind Cave National Park,[54] and the level varies depending on the year and the number of the wildfires.[55] The SIP explains that the despite the spikes in particulate organic mass at Wind Cave, decreases in ammonium sulfate, ammonium nitrate and other aerosol species have led to decreased deciview levels at the Wind Cave National Park. The DENR anticipates this trend will continue and improve as the DENR continues to work with the National Park Service on prescribed fires in the Badlands and Wind Cave National Parks.[56]

The EPA proposes to find that South Dakota has adequately addressed the provisions of 40 CFR 51.308(g) regarding the strategy assessment, including the State's efforts to investigate the impacts of a smoke management plan, and agrees with the State's determination that its regional haze plan is sufficient to meet the RPGs for its Class I areas.

7. Review of Current Monitoring Strategy

For progress reports for the first implementation period, the provisions under 40 CFR 51.308(g) (7) require ''a review of the State's visibility monitoring strategy and any modifications to the strategy as necessary.'' In its Progress Report, South Dakota summarizes the existing monitoring network in the State to monitor visibility at Badlands and Wind Cave National Parks, which consists of DENR relying on the national IMPROVE network to meet monitoring and data collection goals.[57] There are currently IMPROVE sites located in both Badlands and Wind Cave National Parks.[58] Therefore, the State concludes that no modifications to the existing visibility monitoring strategy are necessary. The State will continue its reliance on the IMPROVE monitoring network. The IMPROVE monitoring network is the primary monitoring network for regional haze, both nationwide and in South Dakota.

The State also explains the importance of the IMPROVE monitoring network for tracking visibility trends at the Class I areas in South Dakota. South Dakota states that in the future the data produced by the IMPROVE monitoring network will be used for preparing the regional haze progress reports and SIP revisions, and thus, the monitoring data from the IMPROVE sites needs to be readily accessible and be kept up-to-date. The Visibility Information Exchange Web System website has been maintained by WRAP and the other Regional Planning Organizations to provide ready access to the IMPROVE data and data analysis tools.

In addition, the State operates additional non-IMPROVE monitors in both Badlands and Wind Cave National Parks which help South Dakota characterize air pollution levels in areas across the State, and therefore aid in the analysis of visibility improvement in and near its Class I areas.[59]

The EPA proposes to find that South Dakota has adequately addressed the applicable provisions of 40 CFR 51.308(g)(7) regarding monitoring strategy because the State reviewed its visibility monitoring strategy, and determined that no further modifications to the strategy are necessary.

B. Determination of Adequacy of the Existing Regional Haze Plan

The provisions under 40 CFR 51.308(h) require states to determine the adequacy of their existing implementation plan to meet existing goals. South Dakota's Progress Report includes a negative declaration regarding the need for additional actions or emissions reductions in South Dakota beyond those already in place and those to be implemented by 2018 according to South Dakota's regional haze plan.[60]

The EPA proposes to conclude that South Dakota has adequately addressed 40 CFR 51.308(h) because the visibility trends at both Class I areas in the State, Badlands and Wind Cave National Parks, indicate that the relevant RPGs

[51] South Dakota Progress Report, p. 34.

[52] South Dakota Progress Report, p. 45.

[53] South Dakota Progress Report, p. 45.

[54] South Dakota Progress Report, p. 40.

[55] South Dakota Progress Report, p. 38.

[56] South Dakota Progress Report, pp. 41–42.

[57] South Dakota Progress Report, p. 42.

[58] South Dakota Progress Report, p. 2.

[59] South Dakota Progress Report, p. 42.

[60] South Dakota Progress Report, p. 45.

will be met via emission reductions already in place.

III. Proposed Action

The EPA is proposing to approve South Dakota's January 27, 2016, Regional Haze Progress Report as meeting the applicable regional haze requirements set forth in 40 CFR 51.308(g) and 51.308(h).

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant 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 action does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

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

Dated: March 13, 2018.

Douglas H. Benevento,

Regional Administrator, Region 8.

[FR Doc. 2018–05398 Filed 3–16–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 180205126–8126–01]

RIN 0648–BH66

Control Date for the Northeast Multispecies Charter/Party Fishery; Northeast Multispecies Fishery Management Plan

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

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: This notice announces a new control date that may be used to determine future participation in the Northeast multispecies charter/party fishery. This notice is necessary to inform interested parties that the New England Fishery Management Council is considering a future action that may affect or limit the number of participants in this fishery and that participants should locate and preserve all fishing related documents. The control date is intended to discourage speculative entry or fishing activity in the Northeast multispecies charter/party fishery while the Council considers how participation in the fishery may be affected.

DATES: March 19, 2018, shall be known as the ''control date'' for the Northeast multispecies charter/party fishery. Written comments must be received on or before April 18, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2018–0042 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=[NOAA-NMFS-2018-0042],* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Michael Pentony, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, ''Comments on Northeast Multispecies Charter/Party Control Date.''
- *Fax:* (978) 281–9135; Attn: Spencer Talmage.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Spencer Talmage, Fishery Management Specialist, 978–281–9232.

SUPPLEMENTARY INFORMATION: This notification establishes March 19, 2018, as the new control date for potential use in determining historical or traditional participation in the charter/party groundfish fishery. Interested participants should locate and preserve all records that substantiate and verify their participation in the charter/party groundfish fishery. Consideration of a

control date does not commit the Council to develop any particular management regime or criteria for participation in the fishery. Any action to develop a limited access program for the charter/party fishery would require a change to the FMP and would be considered through the normal Council process, including rulemaking, that would allow additional opportunities for public comment.

The New England Fishery Management Council first established a control date of March 30, 2006, for the Northeast multispecies (groundfish) charter/party fishery (71 FR 16111). At the time, members of the charter/party industry and the Council's Recreational Advisory Panel recommended that the Council restrict new entrants to the fishery to reduce the need for further restrictions on the recreational catch of groundfish. In 2010, the Council requested that we publish a subsequent Advance Notice of Proposed Rulemaking (ANPR) to reaffirm the original control date (75 FR 57249; September 20, 2010). Participants in the recreational fishery were concerned that the number of charter/party operators would increase substantially due to the implementation of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). Amendment 16 implemented large-scale changes for the fishery, including annual catch limits and accountability measures and an expanded the sector management program. The charter/party fishery includes vessels with open access charter/party permits as well as vessels issued a limited access groundfish permit, while not on a groundfish day-at-sea or fishing under the sector management program. The Council has not yet taken action to restrict entrants or participants in the charter/party fishery.

For 2018, the Council included a multi-year priority to scope for the development of a limited entry program for the charter/party fishery. In light of this priority, the Council voted on January 31, 2018, to revise the control date. The Council requested that we establish a new control date as the date of publication of this Advanced Notice of Proposed Rulemaking. Because conditions and issues in the recreational groundfish fishery have changed considerably over the past 10 years, the Council determined this new control date is a more useful indicator of recent activity in the fishery. This action notifies the public and fishery participants of possible rulemaking, and that the Council is considering future action that may limit the number of or otherwise affect participants in the fishery.

The control date is intended to discourage speculative entry, investment, or fishing activity in the charter/party fishery while the Council considers if and how participation in the fishery may be affected. The Council may use this control date for entry or participation qualification, along with additional criteria. Performance or fishing effort after the date of publication may not be treated the same as performance or effort before the control date. The Council may choose to use different qualification criteria that do not incorporate the new control date. The Council may also choose to take no further action to control entry or access to the charter/party groundfish fishery.

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

Dated: March 14, 2018.

Samuel D. Rauch, III,

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

[FR Doc. 2018–05505 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 83, No. 53
Monday, March 19, 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

Food Safety and Inspection Service

[Docket No. FSIS–2018–0007]

Codex Alimentarius Commission: Meeting of the Codex Committee on Methods of Analysis and Sampling

AGENCY: Office of Food Safety, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of Food Safety, U.S. Department of Agriculture (USDA), and the Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (CFSAN) are sponsoring a public meeting on April 6, 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 39th Session of the Codex Committee on Methods of Analysis and Sampling (CCMAS) of the Codex Alimentarius Commission (Codex), taking place in Budapest, Hungary, between May 7 and 11, 2018. The Acting Deputy Under Secretary, Office of Food Safety and the FDA recognize the importance of providing interested parties with the opportunity to obtain background information on the 39th Session of the CCMAS and to address items on the agenda.

DATES: The public meeting is scheduled for Friday, April 6, 2018, 10:30 a.m.–12:30 p.m.

ADDRESSES: The public meeting will take place at the United States Department of Agriculture (USDA), Jamie L. Whitten Building, Room 107–A, 1400 Independence Avenue SW, Washington, DC 20250. Documents related to the 39th Session of the CCMAS will be accessible via the internet at the following address: *http://www.codexalimentarius.org/meetings-reports/en/.*

Dr. Gregory O. Noonan, U.S. Delegate to the 39th Session of the CCMAS, invites U.S. interested parties to submit their comments electronically to the following email address: *Gregory.Noonan@fda.hhs.gov.*

Call-in-Number

If you wish to participate in the public meeting for the 39th Session of the CCMAS by conference call, please use the call-in-number listed below:

Call-in-Number: 1–888–844–9904.

Access Code: 5126092#.

Registration: Attendees may register to attend the public meeting by emailing *Doreen.Chen-Moulec@fsis.usda.gov* by April 4, 2018. Early registration is encouraged because 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. Attendees who are not able to attend the meeting in person, but who wish to participate, may do so by phone.

FOR FURTHER INFORMATION CONTACT: About the 39th session of the CCMAS: Gregory O. Noonan, Ph.D., Research Chemist, Center for Food Safety and Applied Nutrition (CFSAN), Food and Drug Administration, Harvey W. Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD 20740 Phone: (240) 402–2250, Fax: (301) 436–2634, Email: *Gregory.Noonan@fda.hhs.gov.*

About the public meeting: Doreen Chen-Moulec, U.S. Codex Office, 1400 Independence Avenue SW, Room 4867, South Agriculture Building, Washington, DC 20250. Phone: (202) 205–7760, Fax: (202) 720–3157, Email: *Doreen.Chen-Moulec@fsis.usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. 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 that fair practices are used in trade.

The CCMAS is responsible for defining the criteria appropriate to Codex Methods of Analysis and Sampling; serving as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories; specifying, on the basis of final recommendations submitted to it by other bodies, referred to above, reference methods of analysis and sampling appropriate to Codex Standards which are generally applicable to a number of foods; considering, amending, and if necessary endorsing, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, and the assessment of microbiological quality and safety on food, and the assessment of specifications for food additives, do not fall within the terms of reference of this Committee); elaborating sampling plans and procedures, as required; considering specific sampling and analysis problems submitted to it by the Commission or any of its Committees; defining procedures, protocols, guidelines, or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The CCMAS is hosted by Hungary and the meeting is attended by the United States as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 39th Session of the CCMAS will be discussed during the public meeting:

- Matters Referred to the Committee by the Codex Alimentarius Commission and Other Subsidiary Bodies;
- Endorsement of Methods of Analysis Provisions and Sampling Plans in Codex Standards;
- Revision of the Recommended Methods of Codex Stan 234/review and update of Codex Stan 234;
- Criteria for endorsement of biological methods used to detect chemicals of concern;
- Proposal to amend the Guidelines on Measurement Uncertainty;
- Proposal to amend the General Guidelines on Sampling
- Report of an Inter-Agency Meeting on Methods of Analysis; and
- Other Business and Future Work.

Each issue listed will be fully described in documents distributed, or to be distributed, by the Secretariat before to the Committee Meeting. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the April 6, 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 39th Session of the CCMAS, Gregory Noonan (see **ADDRESSES**).

Written comments should state that they relate to activities of the 39th Session of the CCMAS.

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

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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,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Paulo Almeida,

Acting U.S. Manager for Codex Alimentarius.

[FR Doc. 2018–05514 Filed 3–16–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Farm to School Census and Comprehensive Review

AGENCY: Food and Nutrition Service (FNS), United States Department of Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection to study farm to school efforts being conducted for the Farm to School Census and Comprehensive Review. The final report will comprehensively examine farm to school and its progress since the passage of the 2010 Child Nutrition Reauthorization, including the United States Department of Agriculture (USDA) Farm to School Grant Program and general growth of farm to school efforts across the country documented by the Farm to School Census and other data sources. This collection includes a structured web survey with School Food Authority (SFA) Directors as well as semi-structured interviews to be conducted by telephone with distributors of school food.

DATES: Written comments must be received on or before May 18, 2018.

ADDRESSES: Address all comments concerning this notice to Ashley Chaifetz, Ph.D., Social Science Research Analyst, Special Nutrition Evaluation Branch, Office of Policy Support, USDA Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302. Comments may be submitted via email to *Ashley.Chaifetz@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed research, contact Ashley Chaifetz, Ph.D., Social Science Research Analyst, Special Nutrition Evaluation Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302; Fax: 703–305–2576; Email: *Ashley.Chaifetz@fns.usda.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Farm to School Census and Comprehensive Review.

OMB Number: 0584—NEW.

Expiration Date: Not yet determined.

Type of Request: New collection.

Abstract: Section 18 of the Richard B. Russell National School Lunch Act authorized and funded USDA to establish a farm to school program in order to assist eligible entities through grants and technical assistance, in implementing farm to school programs that improve access to local foods in schools. This work is housed within the FNS Office of Community Food Systems (OCFS). The Farm to School Census and

Comprehensive Review is a 3-year study that will review and describe the multiple facets of farm to school, including the USDA Farm to School Grant Program and expansion of farm to school efforts across the country documented by the Farm to School Census and other data sources. The final report will comprehensively examine farm to school efforts and their progression since the passage of the 2010 Child Nutrition Reauthorization.

The study will include a literature review to identify current data sources for analysis, complete a gap analysis of current farm to school-focused publications and data, develop recommendations for improving evaluation-related reporting of the USDA Farm to School Grant program, and design, conduct, and report on the 2019 Farm to School Census, which will be supplemented with additional data sources. The results of this study aim to improve the methods and tools used by FNS to describe the impact and benefits of formal and informal farm to school activities administered by grantees, schools, SFAs, and other stakeholders. Ultimately, the study will produce a first-of-its-kind report—a comprehensive assessment of farm to school from 2010 to 2020. This study will collect and synthesize data collected through a national census of SFAs with extant data regarding farm to school activities, local sourcing practices, and economic activity associated with these practices.

To accomplish study objectives, two data collections are planned:

(1) *Distributor Survey* will obtain the perspectives of large-scale food distributors on the processes and challenges to local food purchasing and procurement. The respondents for this survey will be purposively sampled based on their substantive contributions and likelihood of participating. The 60 minute survey will be conducted via a phone interview. The survey will contain quantitative questions surrounding the volume and cost of local foods purchased and procured and qualitative questions about the procurement process. The interview will be completed with 20 school food distributors. This survey will be exploratory, and will help address whether a larger survey is feasible and desirable. Currently, there are no available data on farm to school efforts from the standpoint of school food distributors.

(2) *Farm to School Census (2019 Census)* will collect data on local food purchasing for school meals, school food gardens, other farm to school activities and policies, and evidence of the economic and nutritional impacts of farm to school activities. The 2019 Census Survey will be distributed to all (public [1] and private) SFA Directors in all 50 states, Guam, Puerto Rico, the Virgin Islands, American Samoa, and Washington, DC that participate in the National School Lunch Program (NSLP), as part of an invitation to participate from the Food and Nutrition Service (FNS) Child Nutrition Division. The online survey is expected to take 30 minutes to complete.

State Child Nutrition Directors will be asked to provide a list of public school district SFAs in the State or territory for the purpose of constructing the most up-to-date list frame possible. Available data on SFAs from FNS are only available for SFAs that submit income verification reports and thus do not provide a complete list of SFAs. State Child Nutrition Directors will also be asked to forward a pre-Census notification email and two email reminders about the Census Survey to SFAs.

The Census will be emailed to all known SFA Directors that participate in NSLP. Census Survey questions will be based on prior Farm to School Census Survey iterations in 2013 (OMB Control No. 0536–0069) and 2015 (OMB Control No. 0584–0593), with additional questions to address new research questions. The primary mode of data collection will be an online survey, with a back-up phone version to those who prefer to complete by phone. Non-respondents will receive up to two reminder phone calls and up to eight emails. Back-up phone interviews and phone reminders will be conducted by trained interviewers, and helpdesk staff will be available for technical and completion assistance. The Census will be completed once in 2019 with approximately 16,000 SFA Directors.

Affected Public: This study includes two respondent groups: (1) Business or Other For Profit (Representatives from national distributors that distribute foods to SFA and SFA Directors for private schools; and (2) State, Local, and Tribal Government (SFA Directors for public schools and State Child Nutrition Directors).

Estimated Total Number of Respondents: The total estimated number of respondents is 20,080 (16,075 respondents and 4,005 non-respondents). The estimated number of respondents for each of the planned data collections are as follows:

(1) *Distributor Survey:* The initial sample for the Distributor Survey will consist of 25 representatives of school food distributors (20 respondents and 5 non-respondents at a response rate of 80 percent). These 25 distributors will be purposively sampled and approached based on a list developed with FNS and this study's Advisory Panel.

(2) *Farm to School Census (2019 Census):* The total estimated number of respondents is the universe of 20,000 SFAs (16,000 respondents and 4,000 non-respondents). SFAs will receive up to ten reminder emails to complete the survey (eight from the study team and two from State Child Nutrition Directors). Up to two reminder call attempts will be made to a subsample of non-responding SFAs, during which time the respondent will be encouraged to complete the survey over the phone. As part of the Census Survey, the universe of 55 State Child Nutrition Directors will be asked to provide a list of public school district SFAs and private schools that administer the NSLP in the State or territory for the purpose of constructing the most up-to-date list frame possible, and to send three emails to SFAs (one pre-Census notification email and two email reminders).

Estimated Total Annual Responses: The estimated total annual responses is 163,685. This includes 94,564 for all respondents and 69,121 for non-respondents.

Estimated Frequency of Responses per Respondent: The estimated frequency across the entire collection is 8.15. Respondents to the Distributor Survey and the Census will be asked to complete each data collection instrument one time. FNS estimates that respondents will average 5.88 responses (94,564 responses/16,075 respondents) across the entire collection, with non-respondents averaging 17.26 responses (69,121 responses/4,005 non-respondents). For State Child Nutrition Directors, FNS estimates that respondents will average 4 responses (220 responses/55 respondents) across the entire collection, with no non-respondents.

Estimated Time per Response per Respondent: The average estimated time is .09 hours for all participants in this collection. Respondents will complete each data collection instrument only one time. The estimated time of response varies from 0.03 hours to one hour, depending on the respondent group, as shown in the table below. The average response times for the various respondent groups are listed below.

For the distributor survey, 25 school food distributor representatives will receive a ''request to participate'' email. All 20 respondents will complete a 60

[1] Public includes charter schools that operate NSLP.

minute phone interview and will be sent a thank you email at the conclusion of the study. For the distributors, the estimated time of response is 0.37 hours per response, with non-respondents averaging 0.03 hours per response.

For the Census, the average estimated time is 0.36 hours per response for responding State Child Nutrition Directors with zero non-respondents; 0.13 hours per response for public SFA director respondents with 0.03 hours per response for public SFA director non-respondents; and, 0.13 per response for private SFA director respondents and 0.03 per response for private SFA director non-respondents.

To create the sample frame for the Census, 55 State Child Nutrition Directors will receive an email requesting a list of SFA names and contact information. The same State Child Nutrition Directors will send a pre-Census notification email and two email reminders to the SFAs in their State throughout the data collection period to all 20,000 potential respondents (public and private). These materials will explain the Census, and encourage and remind the respondent to complete the survey.

During the data collection period, the study team will send up to eight reminder emails to the respondents who have not yet taken the survey. These emails are estimated to take respondents 3 minutes (.05 hours) to review, with non-respondents estimated to take 2 minutes (.03 hours) to review. Two phone calls will follow to those potential respondents that remain, which are estimated to take respondents 3 minutes and non-respondents 2 minutes to complete. All respondents who complete the 30 minute survey will be thanked for their participation in the Census (which is estimated to take 2 minutes to complete).

Estimated Total Annual Burden on Respondents: The total estimated annual burden on respondents is 14,406.03 hours. See the table (Exhibit 1) for estimated total annual burden for each type of respondent.

Dated: March 8, 2018.

Brandon Lipps,

Administrator, Food and Nutrition Service.

BILLING CODE 3410–30–P

Exhibit 1. Estimated annual burden hours on respondents

				Responsive					Non-Responsive					
Respondent Type	Respondent Description	Data Collection Activity	Original Sample Size	Estimated number of respondents	Frequency of Response	Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	Estimated number of non-respondents	Frequency of Response	Total Annual Responses	Hours per Response	Estimated Annual Burden (hours)	Estimated Total Annual Hour Burden
State/local government	State Child Nutrition Directors	Request to State Directors for list of SFAs and Director Contact Information	55	55	1	55	0.30	16.50	0	0	0	0.00	0.00	16.50
		Pre-Census notification email to SFAs	55	55	1	55	1.00	55.00	0	0	0	0.00	0.00	55.00
		Email reminder to SFAs to complete Census	55	55	2	110	0.06	6.60	0	0	0	0.00	0.00	6.60
		Subtotal (State Child Nutrition Directors)	**55**	**55**	**4.00**	**220**	**0.36**	**78.10**	**0**	**0**	**0**	**0.00**	**0.00**	**78.10**
	SFA Directors: Public schools	2019 Census Survey (by phone or email)	15,000	12,000	1	12,000	0.50	6,000.00	3,000	1	3,000	0.05	150.00	6,150.00
		Pre-Census notification email (from State Child Nutrition Directors)	15,000	12,000	1	12,000	0.06	720.00	3,000	1	3,000	0.03	90.00	810.00
		Census reminder email #1 (from study team)	12,000	2,400	1	2,400	0.05	120.00	9,600	1	9,600	0.03	288.00	408.00
		Census reminder email #2 (from study team)	9,600	1,920	1	1,920	0.05	96.00	7,680	1	7,680	0.03	230.40	326.40
		Census reminder email #3 (from study team)	7,680	1,536	1	1,536	0.05	76.80	6,144	1	6,144	0.03	184.32	261.12
		Census reminder email #4 (from study team)	6,144	1,229	1	1,229	0.05	61.44	4,915	1	4,915	0.03	147.46	208.90
		Census reminder email #5 (from study team)	4,915	983	1	983	0.05	49.15	3,932	1	3,932	0.03	117.96	167.12
		Census reminder email #6 (from study team)	3,932	786	1	786	0.05	39.32	3,146	1	3,146	0.03	94.37	133.69
		Census reminder email #7 (from study team)	3,146	629	1	629	0.05	31.46	2,517	1	2,517	0.03	75.50	106.95
		Census reminder email #8 (from study team)	2,517	506	1	506	0.05	25.29	2,011	1	2,011	0.03	60.32	85.61
		Census reminder emails (from State Child Nutrition Directors)	15,000	12,000	2	24,000	0.06	1,440.00	3,000	1	3,000	0.03	90.00	1,530.00
		Census reminder phone call #1 (from study team)	2,011	402	1	402	0.05	20.11	1,609	1	1,609	0.03	48.26	68.37
		Census reminder phone call #2 (from study team)	1,609	322	1	322	0.05	16.09	1,287	1	1,287	0.03	38.61	54.69
		Post-Census thank you email (from study team)	12,000	12,000	1	12,000	0.03	360.00	0	0	0	0.03	0.00	360.00
		Subtotal (SFAs: Public Schools)	**15,000**	**12,000**	**5.89**	**70,713**	**0.13**	**9,055.66**	**3,000**	**17.28**	**51,840**	**0.03**	**1,615.20**	**10,467.05**
	Subtotal (All State/local government)		**15,055**	**12,055**	**5.88**	**70,933**	**0.13**	**9,134**	**3,000**	**17.28**	**51,840**	**0.03**	**1,615.20**	**10,827.05**
Business	SFA Directors: Private Schools	2019 Census Survey (by phone or email)	5,000	4,000	1	4,000	0.50	2,000.00	1,000	1	1,000	0.05	50.00	2,050.00
		Pre-Census notification email (from State Child Nutrition Directors)	5,000	4,000	1	4,000	0.06	240.00	1,000	1	1,000	0.03	30.00	270.00
		Census reminder email #1 (from study team)	4,000	800	1	800	0.05	40.00	3,200	1	3,200	0.03	96.00	136.00
		Census reminder email #2 (from study team)	3,200	640	1	640	0.05	32.00	2,560	1	2,560	0.03	76.80	108.80
		Census reminder email #3 (from study team)	2,560	512	1	512	0.05	25.60	2,048	1	2,048	0.03	61.44	87.04
		Census reminder email #4 (from study team)	2,048	410	1	410	0.05	20.48	1,638	1	1,638	0.03	49.15	69.63
		Census reminder email #5 (from study team)	1,638	329	1	329	0.05	16.47	1,309	1	1,309	0.03	39.27	55.74
		Census reminder email #6 (from study team)	1,309	262	1	262	0.05	13.09	1,047	1	1,047	0.03	31.42	44.51
		Census reminder email #7 (from study team)	1,047	209	1	209	0.05	10.47	838	1	838	0.03	25.13	35.61
		Census reminder email #8 (from study team)	838	168	1	168	0.05	8.38	670	1	670	0.03	20.11	28.49
		Census reminder emails (from State Child Nutrition Directors)	5,000	4,000	2	8,000	0.06	480.00	1,000	1	1,000	0.03	30.00	510.00
		Census reminder phone call #1 (from study team)	670	134	1	134	0.05	6.70	536	1	536	0.03	16.09	22.79
		Census reminder phone call #2 (from study team)	536	107	1	107	0.05	5.36	429	1	429	0.03	12.87	18.23
		Post-Census thank you email (from study team)	4,000	4,000	1	4,000	0.03	120.00	0	0	0	0.03	0.00	120.00
		Subtotal (SFAs: Private Schools)	**5,000**	**4,000**	**5.89**	**23,571**	**0.13**	**3,018.55**	**1,000**	**17.28**	**17,276**	**0.03**	**538.28**	**3,556.83**
	Distributors	Request to participate email (from study team)	25	20	1	20	0.06	1.20	5	1	5	0.03	0.15	1.35
		Distributor Survey (by phone)	20	20	1	20	1.00	20.00	0	0	0	0.00	0.00	20.00
		Thank you email (from study team)	20	20	1	20	0.04	0.80	0	0	0	0.00	0.00	0.80
		Subtotal (Distributors)	**25**	**20**	**3**	**60**	**0.37**	**22.00**	**5**	**1**	**5**	**0.03**	**0.15**	**22.15**
	Subtotal (All Businesses)		**5,025**	**4,020**	**5.88**	**23,631**	**0.13**	**3,041**	**1,005**	**17.19**	**17,281**	**0.03**	**538.43**	**3,578.98**
TOTAL REPORTING BURDEN			**20,080**	**16,075**	**5.88**	**94,564**	**0.13**	**12,174.31**	**4,005**	**17.26**	**69,121**	**0.03**	**2,153.63**	**14,406.03**

Note: For the totals in the column labeled "Estimated number of non-respondents," only those who will never respond are included in the total.

[FR Doc. 2018–05440 Filed 3–16–18; 8:45 am]
BILLING CODE 3410–30–C

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Boundary and Annexation Survey

Correction

In notice document 2018–04514, on pages 9475–9478, in the issue of Tuesday, March 6, 2018, make the following correction:

On page 9475, in the first column, in the heading **DATES**, the entry that reads ''March 7, 2018'' should read ''May 7, 2018''.

[FR Doc. C1–2018–04514 Filed 3–16–18; 8:45 am]
BILLING CODE 1301–00–D

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Euro SME Sdn Bhd (Euro SME), an exporter of polyethylene retail carrier bags (PRCBs) from Malaysia, did not have shipments of subject merchandise during the August 1, 2016, through July 31, 2017, period of review (POR).

DATES: Applicable March 19, 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.

Background

On August 1, 2017, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on PRCBs from Malaysia for the POR.[1] On October 16, 2017, in response to a timely request from the petitioners,[2] and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce initiated an administrative review of the antidumping duty order on PRCBs from Malaysia with respect to Euro SME.[3] Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now May 7, 2018.[4] We invite parties to comment on these preliminary results.

Scope of the Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this antidumping duty order excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive.

Preliminary Determination of No Shipments

We received a timely submission from Euro SME certifying that it did not have sales, shipments, or exports of subject merchandise to the United States during the POR.[5] On January 10, 2018, Commerce requested entry data from U.S. Customs and Border Protection (CBP) for subject merchandise exported by Euro SME and imported into the United States during the POR. This query returned no entries during the POR.[6] Additionally, in order to examine Euro SME's claim, we sent a ''no-shipments'' inquiry to CBP requesting that any CBP officer alert Commerce if he/she had information contrary to these no-shipments claims.[7] On January 11, 2018, Commerce was notified by CBP that there were no shipments of PRCBs from Malaysia during the POR.[8] Consistent with our practice, we preliminarily determine that Euro SME had no shipments during the POR. Further, we find it is not appropriate to rescind the review with respect to Euro SME but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice.[9]

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 35754 (August 1, 2017).

[2] *See* letter from Polyethylene Retail Bags Committee and its individual members Hilex Poly Co., LLC and Superbag Corp. (the petitioners), ''Polyethylene Retail Carrier Bags from Malaysia: Request for Administrative Review,'' dated August 31, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 48051 (October 16, 2017).

[4] *See* memorandum to the record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

[5] *See* letter from Euro SME, ''Polyethylene Retail Carrier Bags from Malaysia; No Shipment Certification,'' dated November 14, 2017.

[6] *See* Commerce's memorandum to the file, ''U.S. Customs and Border Protection Data,'' dated January 12, 2018.

[7] *See* CBP message 8011306, dated January 11, 2018.

[8] *See* Commerce's memorandum to the file, ''U.S. Customs and Border Protection—No Shipment Inquiry Data,'' dated February 6, 2018.

[9] *See, e.g., Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012–2013,* 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012–2013,* 79 FR 51306 (August 28, 2014).

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the **Federal Register**.[10] Rebuttal comments to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the date for filing case briefs.[11] Parties who submit arguments in this proceeding are requested to submit with each argument: (a) A statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.[12] Parties submitting briefs should do so pursuant to Commerce's electronic filing system: Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[13] ACCESS is available to registered users at *https://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Hearing requests should contain the following information: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

Unless extended, we intend to issue the final results of this administrative review, including our analysis of all issues raised in any written brief, not later than 120 days of publication of this notice in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[14] In accordance with Commerce's practice, for entries of subject merchandise during the POR for which Euro SME did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction [15] We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this 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 of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For Euro SME, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to Euro SME in the most recently completed review of the company; (2) for previously investigated or reviewed companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters is 2.40 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 13, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–05481 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–DS–P

[10] *See* 19 CFR 351.309(c)(1)(ii).

[11] *See* 19 CFR 351.309(d)(1)(2).

[12] *See* 19 CFR 351.309(c)(2), (d)(2).

[13] *See* 19 CFR 351.303 (for general filing requirements).

[14] *See* 19 CFR 351.212(b).

[15] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–861]

Certain Uncoated Groundwood Paper From Canada: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that certain uncoated groundwood paper (UGW paper) from Canada is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2016, through June 30, 2017.

DATES: Applicable March 19, 2018.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Terre Keaton Stefanova, 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) 482–4136 or (202) 482–1280, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on September 1, 2017.[1] On December 21, 2017, Commerce postponed the preliminary determination of this investigation until March 7, 2018.[2] Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. If the new

[1] *See Certain Uncoated Groundwood Paper from Canada: Initiation of Less-Than-Fair-Value Investigation,* 82 FR 41599 (September 1, 2017) *(Initiation Notice).*

[2] *See Certain Uncoated Groundwood Paper From Canada: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation,* 82 FR 60586 (December 21, 2017).

deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary determination of this investigation is now March 12, 2018.[3]

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov,* and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is UGW paper from Canada. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the Preamble to Commerce's regulations,[5] the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.,* scope).[6] Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice.* For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Scope Decision Memorandum.[7]

After evaluating these comments, Commerce has preliminarily modified the scope language as it appeared in the *Initiation Notice* to exclude: 1) Paper that has undergone a creping process over the entire surface area of the paper; 2) UGW construction paper and UGW manila drawing paper in sheet or roll format; and 3) directory paper. *See* the revised scope in Appendix I to this notice. For further discussion, *see* the Preliminary Scope Decision Memorandum.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce calculated export price in accordance with section 772(a) of the Act. Alternatively, as appropriate, Commerce calculated constructed export price in accordance with section 772(b) of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(A)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce preliminarily found zero rates for Resolute FP Canada Inc. and Donohue Malbaie Inc. (collectively, Resolute), and White Birch Paper Canada Company, Papier Masson WB LP, FF Soucy WB LP, and Stadacona WB LP (collectively, White Birch Paper). Therefore, the only rate that is not zero, *de minimis,* or based entirely on facts otherwise available is the rate calculated for Catalyst Pulp and Paper Sales, Inc. and Catalyst Paper General Partnership (collectively, Catalyst). Consequently, the rate calculated for Catalyst is also assigned as the rate for all-other producers and exporters in this investigation.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Catalyst Pulp and Paper Sales, Inc./Catalyst Paper General Partnership	22.16
Resolute FP Canada Inc/ Donohue Malbaie Inc	0.00
White Birch Paper Canada Company/Papier Masson WB LP/ FF Soucy WB LP/Stadacona WB LP	0.00
All Others	22.16

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination, except if that rate is zero or *de minimis,* no cash deposit will be required; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise, except as explained below; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Because the estimated weighted-average dumping margins for Resolute and White Birch Paper are zero, entries of shipments of subject merchandise from these companies will not be subject to suspension of liquidation or cash deposit requirements. In such situations, Commerce applies the exclusion to the provisional measures to the producer/exporter combination that was examined in the investigation. Accordingly, Commerce is directing CBP not to suspend liquidation of

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by three days.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Certain Uncoated Groundwood Paper,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[6] *See Initiation Notice.*

[7] *See* Memorandum, ''Certain Uncoated Groundwood Paper from Canada: Scope Comments Decision Memorandum for the Preliminary Determination'' (Preliminary Scope Decision Memorandum), dated concurrently with this preliminary determination.

entries of subject merchandise produced and exported by: (1) Resolute; and (2) White Birch Paper. Entries of shipments of subject merchandise from Resolute or White Birch Paper in any other producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combination, or by third parties that sourced subject merchandise from the excluded producer/exporter combinations, are subject to the provisional measures at the all others rate.

Should the final estimated weighted-average dumping margin be zero or *de minimis* for Resolute and White Birch Paper, entries of shipments of subject merchandise produced and exported by either Resolute or White Birch Paper will be excluded from the potential antidumping duty order. Such exclusion is not applicable to merchandise exported to the United States by Resolute or White Birch Paper in any other producer/exporter combinations or by third parties that sourced subject merchandise from the excluded producer/exporter combinations.

These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any 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).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[8] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On January 23, 2018, pursuant to 19 CFR 351.210(e), the petitioner requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[9] Additionally, on January 16, January 19, and January 23, 2018, White Birch Paper, Catalyst, and Resolute, respectively, requested that Commerce postpone the final determination and that provisional measures be extended to a period not to exceed six months.[10] In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because: (1) The preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, Commerce is postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: March 12, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation includes certain paper that has not been coated on either side and with 50 percent or more of the cellulose fiber content consisting of groundwood pulp, including groundwood pulp made from recycled paper, weighing not more than 90 grams per square meter. Groundwood pulp includes all forms of pulp produced from a mechanical pulping process, such as thermo-mechanical process (TMP), chemi-thermo mechanical process (CTMP), bleached chemi-thermo mechanical process (BCTMP) or any other mechanical pulping process. The scope includes paper shipped in any form, including but not limited to both rolls and sheets.

[8] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[9] *See* Petitioner's Letter, ''Antidumping Duty Investigation of Certain Uncoated Groundwood Paper from Canada: Petitioner's Request for Postponement of Final Determination,'' dated January 23, 2018.

[10] *See* White Birch Paper's Letter, ''Certain Uncoated Groundwood Paper from Canada, Case No. A–122–861: Request to postpone Final Determination,'' dated January 16, 2018; Catalyst's Letter, ''Certain Uncoated Groundwood Paper from Canada: Catalyst Request to Postpone Final Determination,'' dated January 19, 2018; and Resolute's Letter, ''Uncoated Groundwood Paper from Canada: Request for Extension of Final Determination in Antidumping Duty Investigation,'' dated January 23, 2018.

Certain uncoated groundwood paper includes but is not limited to standard newsprint, high bright newsprint, book publishing, and printing and writing papers. The scope includes paper that is white, off-white, cream, or colored.

Specifically excluded from the scope are imports of certain uncoated groundwood paper printed with final content of printed text or graphic. Also excluded are papers that otherwise meet this definition, but which have undergone a supercalendering process.[11] Additionally, excluded are papers that otherwise meet this definition, but which have undergone a creping process over the entire surface area of the paper.

Also excluded are uncoated groundwood construction paper and uncoated groundwood manila drawing paper in sheet or roll format. Excluded uncoated groundwood construction paper and uncoated groundwood manila drawing paper: (a) Have a weight greater than 61 grams per square meter; (b) have a thickness greater than 6.1 caliper, *i.e.,* greater than .0061'' or 155 microns; (c) are produced using at least 50 percent thermomechanical pulp; and (d) have a shade, as measured by CIELAB, as follows: L* less than or 75.0 *or* b* greater than or equal to 25.0.

Also excluded is uncoated groundwood directory paper that: (a) Has a basis weight of 34 grams per square meter or less; and (b) has a thickness of 2.6 caliper mils or 66 microns or less.

Certain uncoated groundwood paper is classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) in several subheadings, including 4801.00.0120, 4801.00.0140, 4802.61.1000, 4802.61.2000, 4802.61.3110, 4802.61.3191, 4802.61.6040, 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.6140, 4802.69.1000, 4802.69.2000, and 4802.69.3000. Subject merchandise may also be imported under several additional subheadings including 4805.91.5000, 4805.91.7000, and 4805.91.9000.[12] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope Comments
V. Discussion of the Methodology
A. Determination of the Comparison Method
B. Results of the Differential Pricing Analysis
VI. Date of Sale
VII. Product Comparisons
VIII. Export Price and Constructed Export Price
IX. Normal Value
A. Home Market Viability
B. Level of Trade
C. Cost of Production (COP) Analysis
1. Calculation of COP
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
D. Calculation of NV Based on Comparison Market Prices
E. Calculation of NV Based on Constructed Value
X. Currency Conversion
XI. Conclusion

[FR Doc. 2018–05486 Filed 3–16–18; 8:45 am]

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[11] Supercalendering imparts a glossy finish produced by the movement of the paper web through a supercalender which is a stack of alternating rollers of metal and cotton (or other softer material). The supercalender runs at high speed and applies pressure, heat, and friction which glazes the surface of the paper, imparting gloss to the surface and increasing the paper's smoothness and density.

[12] The following HTSUS numbers are no longer active as of January 1, 2017: 4801.00.0020, 4801.00.0040, 4802.61.3010, 4802.61.3091, and 4802.62.6040.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–842]

Large Residential Washers From Mexico: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On November 8, 2017, the Department of Commerce (Commerce) published the preliminary results of the fourth administrative review of the antidumping duty (AD) order on large residential washers from Mexico. The period of review (POR) is February 1, 2016, to January 31, 2017. Based on our analysis of the comments received, our final results remain unchanged from the preliminary results. The final dumping margin for the respondent, Electrolux Home Products Corp. N.V. and Electrolux Home Products de Mexico, S.A. de C.V. (collectively, Electrolux), is listed below in the section entitled ''Final Results of the Review.''

DATES: Applicable March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Ross Belliveau or Rebecca Janz, 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 and (202) 482–2972, respectively.

SUPPLEMENTARY INFORMATION:

Background

The review covers one producer/exporter of the subject merchandise: Electrolux. On November 8, 2017, Commerce published the *Preliminary Results.*[1]

In December 2017, we received a case brief from Electrolux and a rebuttal brief from the petitioner, Whirlpool Corporation.

Scope of the Order

The products covered by the order are all large residential washers and certain subassemblies thereof from Mexico. The products are currently classifiable under subheadings 8450.20.0040 and 8450.20.0080 of the Harmonized Tariff System of the United States (HTSUS). Products subject to this order may also enter under HTSUS subheadings 8450.11.0040, 8450.11.0080, 8450.90.2000, and 8450.90.6000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to this scope is dispositive.[2]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are listed in the Appendix to this notice and addressed in the Issues and Decision Memorandum. Parties can find a complete discussion of these issues and the corresponding recommendations in this public memorandum, which is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov;* the Issues and Decision Memorandum is also available to all parties in the Central Records Unit, Room B8024, of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of the Review

We are assigning the following dumping margin to Electrolux:

[1] *See Large Residential Washers from Mexico: Preliminary Results of the Antidumping Duty Administrative Review; 2016–2017,* 82 FR 51810 (November 8, 2017) (*Preliminary Results*).

[2] A full description of the scope of the order is contained in Memorandum, ''Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Large Residential Washers from Mexico,'' dated concurrently with this notice (Issues and Decision Memorandum).

Manufacturer/exporter	Dumping margin (percent)
Electrolux Home Products Corp. NV/Electrolux Home Products de Mexico, S.A. de C.V.	72.41

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act, and 19 CFR 351.212(b)(1), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue appropriate assessment instructions directly to CBP 41 days after publication of the final results of this administrative review. For Electrolux, we will base the assessment rate, which was assigned as an adverse facts available (AFA) rate,[3] for the corresponding entries on the margin listed above.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Electrolux will be equal to the dumping margin established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently-completed segment of this proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 36.52 percent, the all-others rate determined in the LTFV investigation.[4] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5) of Commerce's regulations.

Dated: March 12, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Duty Absorption
V. Discussion of the Issues
  Comment 1. The Application of Adverse Facts Available (AFA)
  Comment 2. Electrolux's Untimely Filed Responses and Requests
  Comment 3. Selection of the AFA Rate
VI. Recommendation

[FR Doc. 2018–05482 Filed 3–16–18; 8:45 am]

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[3] For a full discussion of Commerce's determination to apply AFA pursuant to sections 776(a) and (b) of the Act, *see* the accompanying Issues and Decision Memorandum at Comment 1. *See also Preliminary Results,* and accompanying Preliminary Decision Memorandum at 3–8.

[4] *See Large Residential Washers from Mexico and the Republic of Korea: Antidumping Duty Orders,* 78 FR 11148 (February 15, 2013).

DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–833]

Carbon and Certain Alloy Steel Wire Rod 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 carbon and certain alloy steel wire rod products (wire rod) from Brazil for the period of review (POR) January 1, 2016, through December 31, 2016.

DATES: Applicable March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Darla Brown or Joshua Tucker, 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) 482–1791 or (202) 482–2044, 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 wire rod from Brazil for the POR.[1] On October 30, 2017, Commerce received a timely request from Nucor Corporation (Nucor), 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.[2]

On December 7, 2017, Commerce published in the **Federal Register** a notice of initiation with respect to ArcelorMittal Brasil SA; Sinobras—Siderurgica Norte Brasil SA; Villares Metals SA; and Votarantim Siderurgia.[3] On January 31, 2018, Nucor timely withdrew its request for an administrative review for these companies.[4]

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 46217 (October 4, 2017).

[2] *See* Letter from Nucor, ''Carbon and Certain Alloy Steel Wire Rod from Brazil: Request for Administrative Review,'' dated October 30, 2017.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 57705 (December 7, 2017).

[4] *See* Letter from Nucor, ''Carbon and Certain Alloy Steel Wire Rod from Brazil: Withdrawal of

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, Nucor 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 wire rod from Brazil covering the period January 1, 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.

This notice is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: March 13, 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. 2018–05484 Filed 3–16–18; 8:45 am]

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Request for Administrative Review,'' dated January 31, 2018.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–832]

Carbon and Certain Alloy Steel Wire Rod From Brazil: Rescission of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Brazil for the period October 1, 2016, through September 30, 2017, based on the timely withdrawal of the request for review.

DATES: Applicable March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Brian Davis, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3931 or (202) 482–7924, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 4, 2017, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Brazil for the period October 1, 2016, through September 30, 2017.[1] On October 30, 2017, Commerce received a timely request, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of this antidumping duty order with respect to five companies and their affiliates from Nucor Corporation (Nucor), a domestic producer of carbon wire rod products.[2] Based on this request, and in accordance with section 751(a) of the Act, Commerce published a notice of initiation of the review in the **Federal Register** on December 7, 2017, in which we initiated reviews of the following companies: ArcelorMittal Brasil SA, Siderurgica Norte Brasil SA, Sinobras, Villares Metals SA, and Votorantim Siderurgica.[3] On January 31, 2018, Nucor filed a timely withdrawal of its request for a review for each of the companies.[4]

Commerce exercised its discretion to toll all deadlines affected by the closure of the federal government from January 20 through January 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. If we were not rescinding this review, the revised deadline for the preliminary results of review would be July 6, 2018.

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, Nucor withdrew its request for review by the 90-day deadline. Accordingly, in response to the timely filed withdrawal of the request for review and in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the antidumping duty order on carbon and certain alloy steel wire rod from Brazil covering the period October 1, 2016, through September 30, 2017.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping 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 to CBP 15 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a 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

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 82 FR 46217 (October 4, 2017).

[2] *See* Petitioner Letter, ''*Carbon and Certain Alloy Steel Wire Rod from Brazil:* Request for Administrative Review,'' dated October 30, 2017 (Review Request).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 57705 (December 7, 2017) (Initiation Notice). *See also* Memorandum, ''Antidumping Duty Administrative Review of Carbon and Certain Alloy Steel Wire Rod from Brazil; Company Names in Forthcoming Initiation Notice,'' dated November 9, 2017, which explains the difference in names between the Review Request and Initiation Notice.

[4] *See* Petitioner Letter, ''*Carbon and Certain Alloy Steel Wire Rod:* Withdrawal of Request for Administrative Review,'' dated January 31, 2018.

of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a 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 violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: March 13, 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. 2018–05483 Filed 3–16–18; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–894]

Certain Tissue Paper Products From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has completed its administrative review of the antidumping duty order on certain tissue paper products (tissue paper) from the People's Republic of China (China) for the period of review (POR) March 1, 2016, through February 28, 2017. We continue to find that Global Key, Inc. (Global Key) is not eligible for a separate rate and that Chung Rhy Special Paper Mill Co., Ltd. (Chung Rhy) had no shipments during the POR.

DATES: Applicable March 19, 2018.

FOR FURTHER INFORMATION CONTACT: Sergio Balbontin, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–6478.

SUPPLEMENTARY INFORMATION:

Background

On November 21, 2017, Commerce published the *Preliminary Results* in the **Federal Register**.[1] We invited interested parties to comment on the *Preliminary Results;* however, no interested parties submitted comments. Accordingly, we made no changes to the *Preliminary Results.*

Scope of the Order

The tissue paper products subject to this order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may be under one or more of several different subheadings, including: 4802.30, 4802.54, 4802.61, 4802.62, 4802.69, 4804.31.1000, 4804.31.2000, 4804.31.4020, 4804.31.4040, 4804.31.6000, 4804.39, 4805.91.1090, 4805.91.5000, 4805.91.7000, 4806.40, 4808.30, 4808.90, 4811.90, 4823.90, 4802.50.00, 4802.90.00, 4805.91.90, 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.[2]

Excluded from the scope of this order are the following tissue paper products: (1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.,* disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTS 4803.00.20.00 and 4803.00.40.00).

Final Determination of No Shipments

In the *Preliminary Results,* Commerce determined that Chung Rhy did not have any shipments of subject merchandise during the POR. As we have not received any information to contradict our preliminary finding, we determine that Chung Rhy did not have any shipments of subject merchandise during the POR and we intend to issue appropriate instructions that are consistent with our ''automatic assessment'' clarification, for these final results.[3]

Methodology

Commerce has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). In the *Preliminary Results,* Commerce determined that Global Key was ineligible for a separate rate and is part of the China-wide entity, subject to the China-wide entity rate of 112.64 percent.[4] As we have not received any information since the issuance of the *Preliminary Results* that provides a basis for reconsidering this determination, we continue to find that Global Key is ineligible for a separate rate.

[1] *See Certain Tissue Paper Products from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2016–2017,* 82 FR 55348 (November 21, 2017) (*Preliminary Results*), and accompanying Memorandum from James Maeder, Senior Director performing the duties of the Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Tissue Paper Products from the People's Republic of China; 2016–2017'' (Preliminary Decision Memorandum).

[2] On January 30, 2007, at the direction of U.S. Customs and Border Protection (CBP), Commerce added the following HTSUS classifications to the AD/CVD module for tissue paper: 4802.54.3100, 4802.54.6100, and 4823.90.6700. However, we note that the six-digit classifications for these numbers were already listed in the scope.

[3] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (*Assessment Notice*); *see also* ''Assessment Rates'' section below.

[4] *See Preliminary Results,* 82 FR at 55349, and Preliminary Decision Memorandum at 4.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of administrative review. Commerce intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. With regard to Global Key, we will instruct CBP to apply an *ad valorem* assessment rate of 112.64 percent to all entries of subject merchandise during the POR which were produced and/or exported by Global Key.

Additionally, consistent with our assessment practice in non-market economy cases, for Chung Rhy, an exporter under review which we determined had no shipments of the subject merchandise, any suspended entries made under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the China-wide rate.[5]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, including Global Key, the cash deposit rate will be that for the China-wide entity, which is 112.64 percent; and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a 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 POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a 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)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: March 13, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2018–05485 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–DS–P

[5] For a full discussion of this practice, *see Assessment Notice.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Protocol for Access to Tissue Specimen Samples from the National Marine Mammal Tissue Bank.

OMB Control Number: 0648–0468.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 25.

Average Hours per Response: Request for tissue sample, 2 hours; specimen submission form, 45 minutes.

Burden Hours: 85.

Needs and Uses: This is a request for extension of a currently approved information collection.

In 1989, the National Marine Mammal Tissue Bank (NMMTB) was established by the National Marine Fisheries Service (NMFS) Office of Protected Resources (OPR) in collaboration with the National Institute of Standards and Technology (NIST), Minerals Management Service (MMS), and the US Geological Survey/Biological Resources Division (USGS/BRD). The NMMTB provides protocols, techniques, and physical facilities for the long-term storage of tissues from marine mammals. Scientists can request tissues from this repository for retrospective analyses to determine environmental trends of contaminants and other substances of interest. The NMMTB collects, processes, and stores tissues from specific indicator species (*e.g.,* Atlantic bottlenose dolphins, Atlantic white sided dolphins, pilot whales, harbor porpoises), animals from mass strandings, animals that have been obtained incidental to commercial fisheries, animals taken for subsistence purposes, biopsies, and animals from unusual mortality events through two projects, the Marine Mammal Health and Stranding Response Program (MMHSRP) and the Alaska Marine Mammal Tissue Archival Project (AMMTAP).

The purposes of this collection of information are: (1) To enable NOAA to allow the scientific community the opportunity to request tissue specimen samples from the NMMTB and, (2) to enable the Marine Mammal Health and Stranding Response Program (MMHSRP) of NOAA to assemble information on all specimens submitted to the National Institute of Standards and Technology's Marine Environmental Specimen Bank (Marine ESB), which includes the NMMTB.

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; state, local, or tribal government; federal government.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov*. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: March 14, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–05509 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; International Dolphin Conservation Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 18, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Justin Greenman, NMFS—Protected Resources Division, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, (562) 980–3264 or *justin.greenman@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

National Oceanic and Atmospheric Administration (NOAA) collects information to implement the International Dolphin Conservation Program Act (Act). The Act allows entry of yellowfin tuna into the United States (U.S.), under specific conditions, from nations in the International Dolphin Conservation Program that would otherwise be under embargo. The Act also allows U.S. fishing vessels to participate in the yellowfin tuna fishery in the eastern tropical Pacific Ocean (ETP) on terms equivalent with the vessels of other nations. NOAA collects information to allow tracking and verification of ''dolphin-safe'' and ''non-dolphin safe'' tuna products from catch through the U.S. market.

The regulations implementing the Act are at 50 CFR parts 216 and 300. The recordkeeping and reporting requirements at 50 CFR parts 216 and 300 form the basis for this collection of information. This collection includes permit applications, notifications, tuna tracking forms, reports, and certifications that provide information on vessel characteristics and operations in the ETP, the origin of tuna and tuna products, chain of custody recordkeeping requirements and certain other information necessary to implement the Act.

II. Method of Collection

Paper applications, other paper records, electronic and facsimile reports, and telephone calls or email messages are required from participants. Methods of submittal include transmission of paper forms via regular mail and facsimile as well as electronic submission via email or an FTP site (password protected).

III. Data

OMB Number: 0648–0387.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 279.

Estimated Time per Response: 35 minutes for a vessel permit application; 10 minutes for an operator permit application, a notification of vessel arrival or departure, a change in permit operator; a notification of a net modification or a monthly tuna storage removal report; 30 minutes for a request for a waiver to transit the ETP without a permit (and subsequent radio reporting) or for a special report documenting the origin of tuna (if requested by the NOAA Administrator); 10 hours for an experimental fishing operation waiver; 15 minutes for a request for a Dolphin Mortality Limit; 35 minutes for written notification to request active status for a small tuna purse seine vessel; 5 minutes for written notification to request inactive status for a small tuna purse seine vessel or for written notification of the intent to transfer a tuna purse seine vessel to foreign registry and flag; 60 minutes for a tuna tracking form or for a monthly tuna receiving report; 30 minutes for IMO application or exemption request; 30 minutes for chain of custody recordkeeping reporting requirement.

Estimated Total Annual Burden Hours: 248.

Estimated Total Annual Cost to Public: $4,578.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 14, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–05508 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF800

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Confined Blasting Operations in the East Channel by the U.S. Army Corps of Engineers During the Tampa Harbor Big Bend Channel Expansion Project in Tampa Harbor, Tampa, Florida

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from the U.S. Army Corps of Engineers, Jacksonville District, (USACE) for authorization to take marine mammals incidental to confined blasting in the East Channel of the Big Bend Channel in Tampa Harbor, Tampa, Florida. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is

requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than April 18, 2018.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Youngkin@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal. 16 U.S.C. 1362(13).

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). 16 U.S.C. 1362(18)(A).

National Environmental Policy Act

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

Accordingly, NMFS plans to adopt the USACE's Supplemental Environmental Assessment (EA) (August, 2017), provided our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing the IHA. The USACE's Supplemental EA and Finding of No Significant Impact (FONSI) is available at *http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/Environmental Documents.aspx#Hillsborough,* and is also available for review on our website at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On August 8, 2017, NMFS received a request from USACE for an IHA to take marine mammals incidental to confined blasting within the East Channel of the Tampa Harbor Big Bend Channel Expansion Project in Tampa, Florida. USACE's request is for take of a small number of the Tampa Bay stock of bottlenose dolphins (*Tursiops truncatus*) by Level B harassment only. Neither USACE nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to USACE for similar work in the Miami Harbor (77 FR 49278, August 15, 2012). However, ultimately, USACE did not perform any confined blasting under that IHA. Prior to that, NMFS issued an IHA to the USACE for similar work in the Miami Harbor Phase II Project in 2005 (70 FR 21174, April 25, 2005) and 2003 (68 FR 32016, May 29, 2003).

Description of Proposed Activity

Overview

The proposed Tampa Harbor Big Bend Channel Expansion Project is located within Hillsborough Bay (part of Tampa Bay), Hillsborough County, Florida. The five major features of the entire project include the following (refer to Figure 2 of the application), but only confined underwater blasting associated with Feature 5 is covered in USACE's IHA application.

- Feature 1 of the project will deepen the project depths of the existing Entrance Channel, Turning Basin, East Channel and Inner Channel from 10.36 meters (m) (34 feet (ft)) to 14 m (46 ft).
- Feature 2 of the project will widen the north side of the Entrance Channel by 15.2 m (50 ft), from 61 m (200 ft) to 76.2 m (250 ft) and deepen it from 10.36 m (34 feet) to 14 m (46 feet).
- Feature 3 of the project will widen the Turning Basin approximately 57.9 m(190 ft) to the southwest to provide a 365.8 m (1,200 ft) turning radius and deepen it from 10.36 m (34 ft) to 14 m (46 ft).
- Feature 4 of the project will add a widener at the southeast corner of the intersection of the Turning Basin and East Channel and deepen it from 10.36 m (34 ft) to 14 m (46 ft).

• Feature 5 of the project will deepen local service facilities (non- federal berthing areas) located north, south, and east of the East Channel and at the south end of the Inner Channel from 10.36 m (34 ft) to 14 m (46 ft).

The USACE IHA application is for work associated with Feature 5 of the project, and would involve possible use of confined underwater blasting (placement of an explosive charge into pre-drilled holes approximately 1.5–3 m deep and capping the hole with inert materials such as crushed rock in order to break up rock substrate along the bottom) to deepen the project's East Channel. To deepen the Big Bend Channel portion of the Tampa Harbor Federal Navigation Project from 10.36 m (34 ft) to 14 m (46 ft), confined underwater blasting may be necessary to pretreat rock areas within the East Channel, where dredging or other rock removal methods are unsuccessful due to the hardness and massiveness of the rock. Sound and pressure associated with this underwater blasting has the potential to incidentally take marine mammals. The existing East Channel is a man-made channel with a history of maintenance dredging and is approximately 1,450 m (4,757 ft) long and 185 m (607 ft) wide at its widest location. Confined underwater blasting is not proposed within the Entrance Channel, Turning Basin, or Inner Channel, or any project area other than the East Channel.

Dates and Duration

Once a contractor has been selected, a specific blasting plan will be prepared that will specify the charge weights and blasting patterns to be used. However, in accordance with the USACE's Endangered Species Act Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS), confined underwater blasting operations or rock pre-treatment will only be conducted during the months of April through October (tentatively scheduled April 1, 2019 through September 30, 2019) in order to avoid take of the West Indian Manatee (*Trichecus manatus*). The exact duration of blasting will be dependent upon a number of factors including hardness of rock, how close the drill holes are placed in relation to each other, and the type of dredging equipment that will be used to remove the pretreated rock. However, certain restrictions shall be imposed on all blasting operations.

In addition to the blasting window being limited to occur from April through October, the contractor shall not exceed a total of 42 blast events. A blast event may include the detonation of a blast pattern with up to 40 individual charges. If multiple blast events are performed in one day, then the blast events shall be separated by an estimated minimum six hours. When blasting operations are conducted, they will take place 24-hours a day, typically six days a week. The contractor may drill the blast pattern at night and then blast after at least two hours after sunrise (one hour plus one hour of monitoring). After detonation of the first pattern, a second pattern may be drilled and detonated under the following circumstances: (1) It is not less than one hour before sunset, and (2) at least six hours have passed since the previous detonation. Blasting activities normally will not take place on Sundays due to local ordinances.

Specific Geographic Region

The proposed confined underwater blasting activities would be performed only within the East Channel of the Tampa Harbor Big Bend Channel Expansion Project located within Hillsborough Bay (part of Tampa Bay), Hillsborough County, Florida (refer to Figures 1 and 2 of the application). Coordinates for the approximate center of the East Channel are 27°48′25.93″ N and 82°24′24.21″ W.

Detailed Description of Specific Activity

The East Channel of Tampa Harbor Big Bend Channel will be deepened by pre-treating the limestone foundation along the bottom of the Channel utilizing confined blasting (the shots will be ''confined'' within the rock), and after blasting the material will be removed by dredge. As described above, explosive charges will be placed within holes drilled into the limestone. Blast holes will be small in diameter, typically 5–10 centimeters (cm) (2–4 inches (in)), and 1.5–3 m (5–10 ft) deep. Drilling activities will take place for a short duration, with no more than three holes being drilled at the same time. Due to the equipment used and the short duration of the drilling activity, drilling is not anticipated to have the potential to result in take of marine mammals.

Typically, each blast pattern is set up in a square or rectangular area divided into rows and columns, although some blast patterns may consist of a single line (for use near bulkheads, for example). The proposed project will use a maximum of 40 charges per pattern. In confined blasting, each charge is placed in a pre-drilled hole and the hole is then capped with an inert material (known as ''stemming the hole''). Studies have shown that stemmed blasts have up to a 60–90 percent decrease in the strength of the pressure released compared to open water blasts of the same charge weight (Nedwell and Thandavamoorthy, 1992; Hempen *et al.,* 2005; Hempen *et al.,* 2007). However, unlike open water blasts, very little peer-reviewed research exists on the effects on marine animals near a stemmed blast.

A delay is defined as a distinct pause of predetermined time between detonation or initiation impulses to permit the firing of explosive charges separately. Delay blasting is the practice of initiating individual explosive decks, boreholes, or rows of boreholes at predetermined time intervals using delay detonators, as compared to instantaneous blasting where all holes are fired essentially simultaneously. To estimate the maximum poundage of explosives that may be utilized for this project, the USACE has reviewed previous blasting projects that were conducted in San Juan Harbor, Puerto Rico in 2000 and Miami Harbor, Florida in 2005. The San Juan Harbor project's heaviest confined blast was 170.1 kilograms (kg) (375 lbs) per delay and in Miami Harbor it was 60.8 kg (134 lbs) per delay. However, based on discussions with the USACE geotechnical engineers, the blasting energy required to break up rock in the East Channel of the Tampa Harbor Big Bend project will be reduced in effort to minimize impacts to the environment and obtain some fracturing of the rock to aid removal. Therefore, the maximum weight of delays will not exceed 18.1 kg (40 lbs) for this project. Therefore, the proposed project will use a maximum charge weight of 725.7 kg (1,600 lbs) as a conservatively high estimate for the total amount of explosives that may be used in the largest blasting pattern (40 charges of 18.1 kg (40 lbs) each).

The following industry standards and USACE Safety and Health Regulations will be implemented:

• The weight of explosives to be used in each blast event will be limited to the lowest kg (not to exceed 18.1 kg (40 lbs)/delay) of explosives that can adequately break the rock.

• Drill patterns shall be restricted to a minimum of 2.4 m (8 ft) separation from a loaded hole.

• Hours of blasting are restricted to two hours after sunrise until one hour before sunset to allow for adequate observation of the project area for protected species. Blasting hours will also be restricted to periods of good weather (no blasting will commence in rain, fog, or otherwise poor weather conditions, and can only commence when the entire Level B harassment zone is visible to observers).

• Selection of explosive products and their practical application method must address vibration and overpressure control for protection of existing structures and marine wildlife.

• Loaded blast holes will be individually delayed such that larger blasts are broken into smaller blasts with a time break between them that will be determined by the contractor. Loaded blast holes will be individually delayed to reduce the maximum kilograms/pounds per blast event (which will reduce the radius at which marine mammals may be injured or killed).

• The blast design will consider matching the energy in the ''work effort'' of the borehole to the rock mass or target for minimizing excess energy vented into the water column or hydraulic shock.

• Delay timing adjustments between delay detonations to stagger the blast pressures and prevent cumulative addition of pressures in the water will be determined by the contractor, and will be in compliance with USACE regulations.

Prior to implementing a blasting program, a test blast program will be completed. The test blast program will have all the same protection measures in place for protected species as blasting for construction purposes. The purpose of the text blast program is to demonstrate and/or confirm the following:

• Drill boat capabilities and production rates;

• Ideal drill pattern for typical boreholes;

• Acceptable rock breakage for excavation;

• Tolerable vibration level emitted;

• Directional vibration;

• Calibration of the environment; and

• Sound parameters of the blasting by variables of the test blasting and production blasting.

The test blast program will begin with a single row of individually delayed holes and progress up to the maximum production blast intended for use. The test blast program will take place in the project area and will count toward the pre-treatment of material, so it will be included in the 42-total-blast-events limit. Each test blast is designed to establish the limits of vibration and overpressure, with acceptable rock breakage for excavation. The final test blast event simulates the maximum explosive detonation as to size, overlying water depth, charge configuration, charge separation, initiation methods, and loading conditions anticipated for the typical production blast. The results of the test blast program will be the basis for developing a completely engineered procedure for the construction blasting plan. Specifically, the test blast program will be used to determine the following:

• Distance between individual charges (minimum 2.4 m (8 ft) requirement);

• Kilograms/pounds per delay (not to exceed 18.1 kg (40 lbs) per delay);

• Peak particle velocities (threshold limit value (TLV));

• Frequencies (TLV);

• Peak vector sum; and

• Overpressure.

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

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the USACE IHA application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*www.nmfs.noaa.gov/pr/species/mammals/*).

Table 1 lists all species with known or potential for occurrence in the project area and offshore of the west central Florida coastline, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

TABLE 1—MARINE MAMMALS WITH POTENTIAC OCCURRENCE IN THE PROJECT AREA

Species	Habitat	Occurrence in project area	Stock population estimate [1]	ESA status [2]	MMPA status [3]	PBR
Humpback whale (*Megaptera novaengliae*).	Pelagic, nearshore waters and banks.	Rare	823—Gulf of Maine Stock	NL	NC	13
Minke whale (*Balaenoptera acutorostrata*).	Coastal, offshore	Rare	2,591—Canadian East Coast Stock.	NL	NC	14
Bryde's whale (*Balaenoptera brydei*).	Pelagic and coastal	Rare	33—Northern Gulf of Mexico Stock.	NL	S	0.03
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic.	Rare	357—Nova Scotia Stock	EN	S	0.5
Fin whale (*Balaenoptera physalus*).	Slope, mostly pelagic	Rare	1,618—Western North Atlantic Stock.	EN	S	2.5
Blue whale (*Balaenoptera musculus*).	Pelagic and coastal	Rare	440—Western North Atlantic Stock.	EN	S	0.9
Sperm whale (*Physeter macrcephalus*).	Pelagic, deep seas	Rare	763—Northern Gulf of Mexico Stock.	EN	S	1.1
Dwarf sperm whale (Kogia sima).	Offshore, pelagic	Rare	186—Northern Gulf of Mexico Stock.	NL	NC	0.9
Gervais' beaked whale (*Mesoplodon europaeus*).	Pelagic, slope and canyons.	Rare	149—Northern Gulf of Mexico Stock.	NL	NC	0.8

TABLE 1—MARINE MAMMALS WITH POTENTIAC OCCURRENCE IN THE PROJECT AREA—Continued

Species	Habitat	Occurrence in project area	Stock population estimate [1]	ESA status [2]	MMPA status [3]	PBR
Sowerby's beaked whale (*Mesoplodon bidens*).	Pelagic, slope and canyons.	Rare	7,092—Western North Atlantic Stock.	NL	NC	0.8
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic, slope and canyons.	Rare	149—Northern Gulf of Mexico Stock.	NL	NC	0.8
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic, slope and canyons.	Rare	74—Northern Gulf of Mexico Stock.	NL	NC	0.4
Killer whale (*Orcinus orca*).	Widely distributed	Rare	28—Northern Gulf of Mexico Stock.	NL	NC	0.1
Short-finned pilot whale (*Globicephala macrorhynchus*).	Inshore and offshore	Rare	2,415—Northern Gulf of Mexico Stock.	NL	NC	15
False killer whale (*Pseudorca crassidens*).	Pelagic	Rare	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Melon-headed whale (*Peponocephala electra*).	Pelagic	Rare	2,335—Northern Gulf of Mexico Stock.	NL	NC	13
Pygmy killer whale (*Feresa attenuata*).	Pelagic	Rare	152—Northern Gulf of Mexico Stock.	NL	NC	0.8
Risso's dolphin (*Grampus griseus*).	Pelagic, shelf	Rare	2,442—Northern Gulf of Mexico Stock.	NL	NC	16
Common bottlenose dolphin (*Tursiops truncatus*).	Offshore, inshore, coastal, and estuaries.	Common	564—Tampa Bay Stock [4]	NL	S	Unknown
Rough-toothed dolphin (*Steno bredanensis*).	Pelagic	Rare	624—Northern Gulf of Mexico Stock.	NL	NC	3
Fraser's dolphin (*Lagenodelphis hosei*).	Shelf and slope	Rare	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Striped dolphin (*Stenella coeruleoalba*).	Coastal, shelf and slope	Rare	1,849—Northern Gulf of Mexico Stock.	NL	NC	10
Pantropical spotted dolphin (*Stenella attenuata*).	Coastal, shelf and slope	Uncommon	50,880—Northern Gulf of Mexico Stock.	NL	NC	407
Atlantic spotted dolphin (*Stenella frontalis*).	Coastal to pelagic	Uncommon	NA—Northern Gulf of Mexico Stock.	NL	NC	Unknown
Spinner dolphin (*Stenella longirostris*).	Mostly pelagic	Uncommon	11,441—Northern Gulf of Mexico Stock.	NL	NC	62
Clymene dolphin (*Stenella clymene*).	Coastal, shelf and slope	Uncommon	129—Northern Gulf of Mexico Stock.	NL	NC	0.6
West Indian manatee (Florida manatee) (*Trichechus manatus latirostris*).	Coastal, rivers, and estuaries.	Uncommon	6,620—Florida Stock [5]	T	D	

[1] NMFS Marine Mammal Stock Assessment Reports (Hayes *et al.,* 2016) unless indicated otherwise.
[2] U.S. Endangered Species Act: EN = endangered; T = threatened; NL = not listed.
[3] U.S. Marine Mammal Protection Act: D = depleted; S = strategic; NC = not classified.
[4] Wells *et al.,* 1995.
[5] Florida Fish and Wildlife Conservation Commission Survey Data (USFWS jurisdiction).

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All values presented in Table 1 are the most recent available at the time of publication and are available in the 2016 Atlantic SAR (Hayes *et al.,* 2016) with the exception of common bottlenose dolphin and the Florida manatee. The Florida manatee is not a species under NMFS jurisdiction, so is not included in the SAR. The abundance estimate from Wells *et al.* (1995) was used for bottlenose dolphins since abundance information is not provided for the Tampa Bay stock in the 2016 SAR.

For Tampa Bay, Urian *et al.* (2009) described five discrete communities of common bottlenose dolphins (including the adjacent Sarasota Bay community) that differed in their social interactions and ranging patterns. Structure was found despite a lack of physiological barriers to movement within this large, open embayment. The authors further suggested that fine-scale structure may be a common element among bottlenose dolphins in the southeastern United States and recommended that management should account for fine-scale structure that exists within current stock designations. NMFS is in process of writing individual SARs for each of the 31 bay, sound, and estuary (BSE) stocks of common bottlenose dolphins. Until this effort is complete, Wells *et al.* (1995) provides the best available information regarding the abundance of the Tampa Bay stock of common bottlenose dolphins.

All species under NMFS' jurisdiction that could potentially occur in the

proposed survey areas are included in Table 1. However, the temporal and/or spatial occurrence of all species except for common bottlenose dolphins is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. The confined blasting portion of the project is located within the East Channel of the Big Bend Channel in Tampa Harbor. Although marine mammal species other than common bottlenose dolphins may transit through the area offshore of Tampa Harbor, they are not anticipated to occur within the proposed project area.

In addition to the species under NMFS jurisdiction that may be found in waters off the west central Florida coast, the Florida manatee (managed by USFWS) may also occur in the proposed project area. The USACE has coordinated with the USFWS for avoidance of take for this species. Therefore, the Florida manatee is not considered further in this document.

The status of the common bottlenose dolphin stock in the project area relative to optimum sustainable population is unknown. This species is not listed as threatened or endangered under the Endangered Species Act (ESA). However, the occurrence of 13 Unusual Mortality Events (UME) among this species in the northern Gulf of Mexico coast since 1990 (Litz, *et al.,* 2014) is cause for concern and the effects of the UMEs on stock abundance have not yet been determined for the Gulf of Mexico stocks, including the Tampa Bay stock (in part due to the fact that it has not been possible to assign mortalities to specific stocks because there is a lack of information on stock identification). NMFS considers each of the Gulf of Mexico stocks (including the Tampa Bay stock) to be strategic because most of the stock sizes are currently unknown, but likely small and relatively few mortalities and serious injuries may exceed PBR.

Past studies have documented year-round residency of individual bottlenose dolphins in estuarine waters (Irvine *et al.,* 1981; Shane, 1977; and Gruber, 1981). As a result, the expectation of year-round resident populations was extended to BSE waters across the northern Gulf of Mexico. Since these early studies, long-term residency has been reported from nearly every site where photographic identification or tagging studies have been conducted in the Gulf of Mexico, including documentation of long-term residency in Tampa Bay (Wells, 1986; Wells *et al.,* 1996; Urian *et al.,* 2009).

In many cases, residents occur primarily in BSE waters with limited movements through passes to the Gulf of Mexico (Shane, 1977 and 1990; Gruber, 1981; Irvine *et al.,* 1981; Maze and Wursig, 1999; Lynn and Wursig, 2002; Fazioli *et al.,* 2006). However, in some areas, year-round residents may co-occur with nonresident dolphins and mixing of inshore residents and non-residents has been documented in several places (Maze and Wursig, 1999; Quintana-Rizzo and Wells, 2001; and Shane, 2004). Non-residents exhibit a variety of movement patterns, ranging from apparent nomadism to apparent seasonal or non-seasonal migrations. Passes, especially the mouths of the larger estuaries, serve as mixing areas. For example, dolphins from several different areas were documented at the mouth of Tampa Bay (Wells, 1986).

Seasonal movements of dolphins into and out of some of the bays, sounds, and estuaries have also been documented, and fall/winter increases in abundance have been noted for Tampa Bay (Scott *et al.,* 1989). In another example, Balmer *et al.* (2008) suggested that during summer and winter, St. Josephs Bay hosts dolphins that spend most of their time within this region, and these may represent a resident community, while in spring and fall, St. Joseph Bay is visited by dolphins that range outside of this area.

Marine Mammal Hearing

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

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Common bottlenose dolphins have the reasonable potential to occur with the proposed survey activities, and are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale). As discussed previously, none of the other species under NMFS' jurisdiction listed in Table 1 are anticipated to occur in the proposed project location.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact

Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources and Sound Types Associated With the Proposed Activities

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz (Hz) or cycles per second. Wavelength is the distance between two peaks of a sound wave. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically measured using the decibel (dB) scale. A dB is the ratio between a measured pressure (with sound) and a reference pressure (sound at a constant pressure, established by scientific standards). It is a logarithmic unit that accounts for large variations in amplitude; therefore, relatively small changes in dB ratings correspond to large changes in sound pressure. When referring to sound pressure levels (SPLs; the sound force per unit area), sound is referenced in the context of underwater sound pressure to 1 microPascal (μPa). One pascal is the pressure resulting from a force of one newton exerted over an area of one square meter. The source level (SL) represents the sound level at a distance of 1 m from the source (referenced to 1 μPa). The received level is the sound level at the listener's position. Note that we reference all underwater sound levels in this document to a pressure of 1 μPa and all airborne sound levels in this document are referenced to a pressure of 20 μPa.

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Rms is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Rms accounts for both positive and negative values; squaring the pressures makes all values positive so that one can account for the values in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in all directions away from the source (similar to ripples on the surface of a pond), except in cases where the source is directional. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound. Ambient sound is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995), and the sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic sound (*e.g.,* vessels, dredging, aircraft, construction). A number of sources contribute to ambient sound, including the following (Richardson *et al.,* 1995):

- Wind and waves: The complex interactions between wind and water surface, including processes such as breaking waves and wave-induced bubble oscillations and cavitation, are a main source of naturally occurring ambient noise for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Surf noise becomes important near shore, with measurements collected at a distance of 8.5 km from shore showing an increase of 10 dB in the 100 to 700 Hz band during heavy surf conditions;
- Precipitation: Sound from rain and hail impacting the water surface can become an important component of total noise at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times;
- Biological: Marine mammals can contribute significantly to ambient noise levels, as can some fish and shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz; and
- Anthropogenic: Sources of ambient noise related to human activity include transportation (surface vessels and aircraft), dredging and construction, oil and gas drilling and production, seismic surveys, sonar, explosions, and ocean acoustic studies. Shipping noise typically dominates the total ambient noise for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly (Richardson *et al.,* 1995). Sound from identifiable anthropogenic sources other than the activity of interest (*e.g.,* a passing vessel) is sometimes termed background sound, as opposed to ambient sound.

The sum of the various natural and anthropogenic sound sources at any given location and time—which comprise ''ambient'' or ''background'' sound—depends not only on the source levels (as determined by current weather conditions and levels of biological and shipping activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

The sounds produced by the proposed confined blasting activities are considered impulsive, which is one of two general sound types, the other being non-pulsed. The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts.

Impulsive sound sources (*e.g.,* explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. These sounds have a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical

injury as compared with sounds that lack these features.

Acoustic Impacts

Please refer to the information given previously (*Description of Sound Sources*) regarding sound, characteristics of sound types, and metrics used in this document. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's hearing range. We first describe specific manifestations of acoustic effects before providing discussion specific to the confined blasting activities.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal, but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* certain non-auditory physical or physiological effects and mortality) only briefly as we do not expect that there is a reasonable likelihood that USACE's confined blasting activities may result in such effects (see below for further discussion). Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Kastak *et al.,* 1999; Schlundt *et al.,* 2000; Finneran *et al.,* 2002, 2005). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007). Repeated sound exposure that leads to TTS could cause PTS. In severe cases of PTS, there can be total or partial deafness, while in most cases the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985).

When PTS occurs, there is physical damage to the sound receptors in the ear (*i.e.,* tissue damage), whereas TTS represents primarily tissue fatigue and is reversible (Southall *et al.,* 2007). In addition, other investigators have suggested that TTS is within the normal bounds of physiological variability and tolerance and does not represent physical injury (*e.g.,* Ward, 1997). Therefore, NMFS does not consider TTS to constitute auditory injury.

Relationships between TTS and PTS thresholds have not been studied in marine mammals—PTS data exists only for a single harbor seal (Kastak *et al.,* 2008)—but are assumed to be similar to those in humans and other terrestrial mammals. PTS typically occurs at exposure levels at least several decibels above that which induces mild TTS: A 40-dB threshold shift approximates PTS onset (*e.g.,* Kryter *et al.,* 1966; Miller, 1974), whereas a 6-dB threshold shift approximates TTS onset (*e.g.,* Southall *et al.,* 2007). Based on data from terrestrial mammals, a precautionary assumption is that the PTS thresholds for impulse sounds (such as bombs) are at least 6 dB higher than the TTS threshold on a peak-pressure basis and PTS cumulative sound exposure level thresholds are 15 to 20 dB higher than TTS cumulative sound exposure level thresholds (Southall *et al.,* 2007). Given the higher level of sound or longer exposure duration necessary to cause PTS as compared with TTS, it is considerably less likely that PTS could occur.

TTS is the mildest form of hearing impairment that can occur during exposure to sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises, and a sound must be at a higher level in order to be heard. In terrestrial and marine mammals, TTS can last from minutes or hours to days (in cases of strong TTS). In many cases, hearing sensitivity recovers rapidly after exposure to the sound ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the data published at the time of this writing concern TTS elicited by exposure to multiple pulses of sound.

Marine mammal hearing plays a critical role in communication with conspecifics, and interpretation of environmental cues for purposes such as predator avoidance and prey capture. Depending on the degree (elevation of threshold in dB), duration (*i.e.,* recovery time), and frequency range of TTS, and the context in which it is experienced, TTS can have effects on marine mammals ranging from discountable to serious. For example, a marine mammal may be able to readily compensate for a brief, relatively small amount of TTS in a non-critical frequency range that occurs during a time where ambient noise is lower and there are not as many competing sounds present. Alternatively, a larger amount and longer duration of TTS sustained during time when communication is critical for successful mother/calf interactions could have more serious impacts.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale (*Delphinapterus leucas*), harbor porpoise (*Phocoena phocoena*), and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal (*Mirounga angustirostris*), harbor seal (*Phoca vitulina*), and California sea lion (*Zalophus californianus*)) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (*e.g.,* Finneran *et al.,* 2002; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Popov *et al.,* 2011). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007) and Finneran and Jenkins (2012).

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially

severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009).

The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have shown pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007).

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, l*et al*one the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.;* 2004; Goldbogen *et al.,* 2013a, b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.;* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005b, 2006; Gailey *et al.,* 2007).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007b). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from seismic surveys (Malme *et al.,* 1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil, 1997; Fritz *et al.,* 2002; Purser and Radford, 2011). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, ''distress'' occurs when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response. In that case, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007b; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound, or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007). USACE's activities involve the use of explosives that are associated with these types of effects; however, severe injury to marine mammals is not anticipated from these activities due to the mitigation measures in place to avoid these types of impacts.

When a marine mammal swims or floats onto shore and is incapable of returning to sea, the event is termed a ''stranding'' (16 U.S.C. 1421h(3)). Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series (*e.g.,* Geraci *et al.,* 1999). However, the cause or causes of most strandings is unknown (*e.g.,* Best, 1982). Combinations of dissimilar stressors may combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other would not be expected to produce the same outcome (*e.g.,* Sih *et al.,* 2004). For further description of stranding events see, *e.g.,* Southall *et al.,* 2006; Jepson *et al.,* 2013; Wright *et al.,* 2013.

The USACE's proposed confined blasting activities have the potential to take marine mammals by exposing them to impulsive noise and pressure waves generated by detonations of explosives. Exposure to energy, pressure, or direct strike has the potential to result in non-lethal injury (Level A harassment), disturbance (Level B harassment), serious injury, and/or mortality. Explosive detonations send a shock wave and sound energy through the water and can release gaseous by-products, create an oscillating bubble, or cause a plume of water to shoot up from the water surface (though this energy is reduced by as much as 60–90 percent by confining the blast as discussed above). The shock wave and accompanying noise are of most concern to marine animals. Depending on the intensity of the shock wave and size, location, and depth of the animal, an animal can be injured, killed, suffer non-lethal physical effects, experience hearing related effects with or without behavioral responses, or exhibit temporary behavioral responses or tolerance from hearing the blast sound. Generally, exposures to higher levels of impulse and pressure levels would result in greater impacts to an individual animal.

The effects of underwater detonations on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the sound; the depth of the water column; the substrate of the habitat; the standoff distance between activities and the animal; and the sound propagation properties of the environment. Thus, we expect impacts to marine mammals from the confined blasting activities to result primarily from acoustic pathways. As such, the degree of the effect relates to the received level and duration of the sound exposure, as influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be.

The potential effects of underwater detonations from the proposed confined blasting activities may include one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007). However, the effects of noise on marine mammals are highly variable, often depending on species and contextual factors (based on Richardson *et al.,* 1995).

In the absence of mitigation, impacts to marine species as a result of the USACE confined blasting could result from physiological and behavioral responses to both the type and strength of the acoustic signature (Viada *et al.,* 2008). The type and severity of behavioral impacts are more difficult to define due to limited studies addressing the behavioral effects of impulsive sounds on marine mammals.

Disturbance Reactions

Disturbance includes a variety of effects, including subtle changes in behavior, more conspicuous changes in activities, and displacement. Numerous studies have shown that underwater sounds are often readily detectable by marine mammals in the water at distances of many kilometers. However, other studies have shown that marine mammals at distances more than a few kilometers away often show no apparent response to activities of various types (Miller *et al.,* 2005). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound from impulsive sources, at other times, mammals of all three types have shown no overt reactions (*e.g.,* Malme *et al.,* 1986; Richardson *et al.,* 1995; Madsen and Mohl, 2000; Croll *et al.,* 2001; Jacobs and Terhune, 2002; Madsen *et al.,* 2002; MacLean and Koski, 2005; Miller *et al.,* 2005; Bain and Williams, 2006).

Controlled experiments with captive marine mammals showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically seismic guns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; Thorson and Reyff, 2006; see also Gordon *et al.,* 2004; Wartzok *et al.,* 2003; Nowacek *et al.,* 2007).

Because the few available studies show wide variation in response to underwater sound, it is difficult to quantify exactly how sound from the USACE confined blasting activities would affect marine mammals. It is likely that the onset of confined detonations could result in temporary, short term changes in an animal's typical behavior and/or avoidance of the affected area. These behavioral changes may include: changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); or avoidance of areas where sound sources are located (Richardson *et al.,* 1995).

The biological significance of any of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However generally, one could expect the consequences of behavioral modification to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could potentially lead to effects on growth, survival, or reproduction include:

- Drastic changes in diving/surfacing patterns (such as those thought to cause beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Auditory Masking

Natural and artificial sounds can disrupt behavior by masking, or interfering with, a marine mammal's ability to hear other sounds. Masking occurs when the receipt of a sound interferes with by another coincident sound at similar frequencies and at similar or higher levels (Clark *et al.,* 2009). While it may occur temporarily, we do not expect auditory masking to result in detrimental impacts to an individual's or population's survival, fitness, or reproductive success. As no blasting would commence if dolphins (or any other protected species) are located within the East Channel (see discussion of Mitigation, below), dolphin movement would not be restricted within the proposed project area, allowing for movement out of the area to avoid masking impacts and the sound resulting from the detonations is short in duration. Also, masking is typically of greater concern for those marine mammals that utilize low frequency communications, such as baleen whales and, as such, is not likely to occur for marine mammals in the proposed project area.

Anticipated Effects on Habitat

Confined detonations would result in temporary changes to the water environment. Explosions could send a shock wave and blast noise through the water, release gaseous by-products, create an oscillating bubble, and cause a plume of water to shoot up from the water surface. However, these effects would be temporary and not expected to last more than a few seconds. In addition, as discussed above, due to the fact that the blasts will be confined, the energy would be reduced by 60 to 90 percent compared to open water blasting, so these effects would be lessened significantly. USACE does not expect any long-term impacts with regard to hazardous constituents to occur, as the explosives utilized are water-soluble and non-toxic. In the event that a charge is unable to be fired and must be left in the drillhole, it is designed to break down as it is made of ammonium nitrate in a fluid gel format. Any material left in the drill hole after blasting would be recovered through the dredging process. USACE considered water quality impacts within its EA and determined the primary anticipated change in water quality at the expansion and maintenance dredging areas would be a temporary increase in turbidity.

According to the State of Florida's Class III water quality standards, turbidity levels during dredging are not to exceed 29 nephelometric turbidity units (NTUs) above background levels at the edge of normally a 150-meter mixing zone. Turbidity will be monitored according to State protocols and work would cease if at any time the turbidity exceeded this standard.

The bottom of the East Channel consists of previously dredged rock and unconsolidated sediment, as the proposed project area is a historically a manmade channel that has been deepened and maintenance dredged. With exception of the proposed deepening, the physical nature of the habitat is not expected to significantly change and should continue to be utilized by dolphins in a similar manner as currently utilized (assumed to be socializing, feeding, resting, etc., though the Channel is not an area of known biological importance for any of these uses). With regard to prey species (mainly fish), a very small number of fish are expected to be impacted by the proposed project. Based on the results of the 2005 blasting project at Miami Harbor, the blasting consisted of 40 blast events over a 38-day time period. Of these 40 blast events, 23 (57.5 percent) were monitored by the State and had injured and dead fish collected after the ''all clear'' was given following blasting (note that this is normally at least 2–3 minutes after the shot, and seagulls and frigate birds quickly learned to approach the blast site and forage on some of the stunned, injured, and dead fish floating at the surface). Volunteers collected carcasses of floating fish (also noting that not all fish float after a blast but due to safety concerns, there was no method to collect non-floating carcasses). A summary of the data showed that 24 different genera were collected during the Miami Harbor blasting events and the total number of fish collected was 288, or an average of 12.5 fish per blast (ranging from 3 to 38). Factors that affect fish mortality include, but are not limited to fish size, body shape (fusiform, etc.), proximity of the blast to a vertical structure (smaller charge weights resulted in high fish kills when close to a bulkhead).

To reduce the potential for fish to be injured or killed, the USACE has previously utilized a small, unconfined explosive charge (usually 0.45 kg (1 lb)) to be detonated approximately 30 seconds before the main blast to drive fish away from the blasting zone. It is assumed that noise or pressure generated by the small charge would drive fish from the immediate area, thereby reducing impacts from the larger and potentially more damaging blast. There is limited data available on the effectiveness of fish-scare charges at actually reducing the magnitude of fish

kills, and the effectiveness may be based on the fish's life history. However, based on the monetary value of fish, including high value commercial or recreational species like snook and tarpon that can be found in west central Florida inlets like Tampa Bay, the low cost associated with the repelling charge use would be offset even if only a few fish were moved from the kill zone (Keevin *et al.,* 1997).

To calculate the potential loss of prey species from the proposed project area as a result of the confined blasting, a 12.5 per-blast kill estimate (based on the Miami Harbor blast study discussed above) was used. It is estimated that approximately 525 fish would be killed by the proposed confined blasting within the East Channel (12.5 fish/blast multiplied by 42 detonations). Therefore, prey availability would not be significantly impacted due to the proposed project.

While we anticipate that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat and prey resources would be temporary and reversible. The main impact associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice. Marine mammals are anticipated to temporarily vacate the area of live detonations. However, these events are usually of short duration, and we anticipate that animals will return to the activity area during periods of non-activity. Thus, based on the preceding discussion, we do not anticipate that the proposed activity would have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

No takes of marine mammals are anticipated, nor are any being proposed for authorization, related to the dredging activities within the Big Bend Channel (including within the East Channel, where the proposed confined blasting will occur). Various types of dredging equipment are anticipated to be utilized in the course of this construction dredging project and may include Mechanical (Clamshell and/or Backhoe) and Hydraulic (Hopper and/or Cutter-Suction). Dredging and direct pumping of material to the placement site is expected, and there will likely be a need for a pipeline to cross the channel at certain locations in order to pump material into the upland placement area. Any such crossing would require that the top of the pipeline remain below −12.5 m (41 ft) mean lower low water (MLLW), which is the lowest height of the average tide recorded for a given location. Placement of the pipeline below −12.5 m MLLW would allow dolphins to transit through this portion of the project area unimpeded and is not anticipated to cause take.

In general, potential impacts to marine mammals from explosive detonations could include mortality, serious injury, as well as Level A harassment (non-lethal injury/permanent threshold shift (PTS)) and Level B harassment (temporary threshold shift (TTS)/behavioral harassment). In the absence of mitigation, marine mammals could be killed or injured as a result of an explosive detonation due to the response of air cavities in the body, such as the lungs and bubbles in the intestines. A second potential possible cause of mortality (in the absence of mitigation) is the onset of extensive lung hemorrhage. Extensive lung hemorrhage is considered debilitating and potentially fatal. Suffocation caused by lung hemorrhage is likely to be the major cause of marine mammal death from underwater shock waves. The estimated range for the onset of extensive lung hemorrhage to marine mammals varies depending upon the animal's weight, with the smallest mammals having the greatest potential hazard range.

Table 2 provides criteria and thresholds related to auditory impacts as well as non-auditory impacts based on NMFS Acoustic Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS 2016), and Finneran and Jenkins (2012). Acoustic thresholds related to TTS and PTS onset are also provided in Table 2 based on NMFS 2016 Acoustic Technical Guidance. For impulse sources (such as explosives), NMFS 2016 includes thresholds expressed as weighted, cumulative sound exposure levels (SELcum) and unweighted peak sound pressure levels (PK). Because of limited data on behavioral reactions of marine mammals to multiple detonations, behavioral thresholds are derived directly from TTS onset thresholds (*i.e.,* behavioral thresholds are five dB lower than TTS onset thresholds).

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns and/or TTS for individual marine mammals resulting from exposure to noise from underwater confined blasting in the East Channel of the Big Bend Channel, Tampa Harbor. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* no blasting if marine mammals (or any protected species) are within the East Channel, which encompasses the entirety of the Level A take zone, as discussed in detail below in Proposed Mitigation section), Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

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

Acoustic Thresholds

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

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—NMFS' CURRENT THRESHOLDS AND CRITERIA FOR IMPACT ANALYSIS FROM THE USE OF EXPLOSIVES FOR MID-FREQUENCY CETACEANS

Hearing group	Species	Behavioral	TTS	PTS	GI tract injury	Lung injury	Mortality
Mid-frequency cetaceans.	Most delphinids, medium and large toothed whales.	165 dB	170 dB SELcum; 224 dB PK.	185 dB SELcum; 230 dB PK.	237 dB	39.1 M1/3 (1+[DRm/10.081])1/2 Pa-sec. Where: M = mass of the animals in kg. DRm = depth of the receiver (animal) in meters.	91.4 M1/3 (1+[DRm/10.081])1/2 Pa-sec. Where: M = mass of the animals in kg. DRm = depth of the receiver (animal) in meters.

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds indicated in Table 2 above to predict the onset of behavioral harassment, TTS, PTS, tissue damage, and mortality.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Radii for Level A and Level B harassment were calculated using algorithms specifically developed for confined underwater blasting operations by the NMFS (see Attachment B of the application, which provides more detail and spreadsheet results). The algorithms compute the cumulative sound exposure impact zone due to a pattern of charges. The code calculates the total explosive energy from all charges through a summation of the individual energy emanating from each charge as a function of temporal and spatial separation of charges. Acoustical transmission loss is assumed to occur through cylindrical spreading. The SEL of the first detonation and each subsequent detonation is summed and transmission loss of acoustic energy due to cylindrical spreading is subtracted from the total SEL. Ultimately, the distance where the received level falls to a set SEL is calculated by spherical spreading of the total SEL (refer to section 6 and Attachment B of the IHA application for more information on how this was modeled). However, the proposed blasting would occur within the East Channel, which is open to the Hillsborough Bay on the west side of the channel, but confined by land on the north, east, and south sides of the channel. NMFS and USACE agree that acoustic energy emanating from the East Channel and into Hillsborough Bay would rapidly decrease as the energy spreads to the north and south outside of the East Channel in the Bay. Under these conditions, sound energy beyond a 45 degree angle, or a 45 degree cone shape outside of the channel mouth would attenuate, and would not result in Level B take.

Level A and B take zones (km^2) were calculated using the calculated blasting radii. Some blasting radii are contained within the water column or between the East Channel's north and south shorelines. These areas therefore are circular in shape. However, larger blasting radii extend beyond the channel's shorelines. In these cases, the areas form an irregular polygon shape that are bounded by the channel's shoreline to the north, east, and south and are cone-shaped outside of the East Channel opening to Tampa/Hillsborough Bay. The areas of these irregular polygon shapes were determined with computer software (Google Earth Pro). This area was then multiplied by the density calculated for common bottlenose dolphins in the project area, as this is the only marine mammal species potentially occurring in the East Channel (density information provided below). Figure 10 of the application illustrates the take areas calculated for the largest blast pattern consisting of 18.1 kg (40 lbs)/delay and 40 individual charges, which was used to calculate estimated take for the confined blasting activities.

We note here that, even in absence of mitigation measures to avoid Level A take, due to the small Level A harassment zone and density of bottlenose dolphins in the proposed project area, Level A take is not anticipated (the maximum calculated take by Level A harassment is 0.02 dolphin). In addition to this, mitigation measures (discussed below) will further ensure that no takes by Level A harassment will occur.

Marine Mammal Occurrence/Density Calculation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

As stated above, common bottlenose dolphins are the only species of marine mammal anticipated to occur in the proposed project area. Using photo-identification methods, Urian *et al.* (2009) identified 858 individual dolphins during their 6-year study in the Tampa Bay. However, as stated above, data from Wells *et al.* (1995) was used for the abundance estimate of the Tampa Bay Stock of common bottlenose dolphins, as Urian *et al.* (2009) was not an abundance estimate, but a population structure study. The Wells *et al.* (1995) mark-resight method provided the most conservative, or highest average, abundance of 564 common bottlenose dolphins within the 852-km^2 study area. In order to calculate take, the USACE made an assumption that the dolphins would be evenly distributed throughout Tampa Bay. The number of dolphins per square kilometer within this area is calculated as 0.66 (564 dolphins ÷ 852 km^2 = 0.66 dolphins/km^2).

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

The USACE proposes a maximum charge weight of 725.7 kg (1,600 lbs) as a conservatively high estimate for the total amount of explosives that may be used in the largest blasting pattern. This is based on the fact that the maximum charge weight per delay would not exceed 18.1 kg (40 lbs)/delay for this project and the maximum number of charges per pattern would not exceed 40. Please refer to Table 3 of the application for the level of take associated with this charge weight as well as other charge weights. Figure 10

of the application provides visual representation of take areas plotted on an aerial photograph for 18.1 kg/delay.

A maximum of 42 blast events would occur over the one year period of this IHA. Using the Tampa Bay Stock abundance estimate (n = 564), the density of common bottlenose dolphins occurring within the footprint of the project (0.66 dolphins/km^2), as well as the maximum charge weight of 18.1 kg (40 lbs)/delay, the USACE is requesting Level B take for behavioral harassment and/or TTS for up to 5.8 common bottlenose dolphins per blast (refer to Table 3 of the application). Therefore, using the maximum amount of explosives per blast event and the maximum number of blast events, an estimated 244 Level B takes would occur over the one-year period of this IHA (5.8 dolphin/blast × 42 detonations = 243.6 exposures). However, the number of dolphins subjected to TTS and/or behavioral harassment is expected to be significantly lower for two reasons. First, the USACE will implement a test blast program to determine the smallest amount of explosives needed to fracture the rock and allow mechanical removal. This test blast program would begin with a single row pattern of charges, and would vary the number and charges/pattern as well as the charge weight/delay to determine the minimum needed and these test blasts would count toward the maximum of 42 total blast events. The maximum 1,600 lb blasting pattern of 18.1 kg (40 lb)/delay and 40 individual charges was used to calculate take due to the uncertainty regarding the minimum needed charge/delay and individual charges as well as uncertainty regarding the number of test blasts. Therefore, there would not actually be 42 blast events with the full pattern of 40 delays at full charge weight/delay (1,600 lb), as was assumed in the take calculation, and the take estimate is a conservative estimate. Second, we expect at least some of the exposures to be repeat exposures of the same individuals, as discussed further in the Small Numbers section below.

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

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

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

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

As discussed previously, the USACE will confine the blasts within the East Channel by boring holes into the existing rock, placing explosive charges within the holes, and stemming the holes in order to greatly reduce the energy released into the water column from the blasts (estimated to reduce the amount of energy by 60–90 percent versus open water blasting). In addition to utilizing the confined blasting, the following conditions will be incorporated into the project specifications to reduce the risk of impacts to marine mammals:

- Confined blasting will be restricted to the East Channel only;
- Blasting will be restricted to the months of April through October (this is to avoid impacts to Florida manatee, but may also serve to avoid impacts if there are seasonal increases in Tampa Bay/proposed project area during the fall/winter as reported by Scott *et al.* (1989), and discussed above);
- The blasting plan shall be provided for NMFS review at least 30 days prior to work, and the blasting plan must include detailed information about the protected species watch program as well as details about proposed blasting events (to be submitted to NMFS headquarters Protected Species Division as well as the NMFS Southeast Regional Office, the State Fish and Wildlife Commission (FWC) Office, and USFWS);
  - The blasting plan shall include:
    - A list of the observers, their qualifications, and positions for the watch, including a map depicting the proposed locations for boat or land-based observers. Qualified observers must have prior on-the-job experience observing for protected marine species (such as dolphins, manatees, marine turtles, etc.) during previous in-water blasting events where the blasting activities were similar in nature to this project;
    - The amount of explosive charge proposed, the explosive charge's equivalency in TNT, how it will be executed (depth of drilling, stemming information, etc.), a drawing depicting the placement of the charges, size of the safety radius and how it will be marked (also depicted on a map), tide tables for the blasting event(s), and estimates of times and days for blasting events (with an understanding this is an estimate, and may change due to weather, equipment, etc.). Certain blasting restrictions will be imposed including the following: (1) Individual charge weights shall not exceed 18.1 kg (40 lbs)/delay, and (2) the contractor shall not exceed a total of 42 blast events during the blast window.
- In addition to review of the blasting plan, NMFS's Southeast Region Office and State FWC shall be notified at the beginning (24 hours prior) and after (24 hours after) any blasting;
- For each explosive charge placed, three zones will be calculated, denoted on monitoring reports and provided to protected species observers before each blast for incorporation in the watch plan for each planned detonation. All of the zones will be noted by buoys for each of the blasts. These zones are:
  - Level A Take Zone: The Level A Take Zone is equal to the radius of the PTS Injury Zone. As shown in the application in Table 3, as well as Figure 10, all other forms of injurious take (*i.e.* gastro-intestinal injury, lung injury) and mortality have smaller radii than the PTS Injury Zone. Detonation shall not occur if a protected species is known to be (or based on previous sightings, may be) within the Level A Take Zone;
  - Exclusion Zone: A zone which is the Level A Take Zone + 152.4 m (500 ft). Detonation will not occur if a

protected species is known to be (or based on previous sightings, may be) within the Exclusion Zone;

○ Level B Take Zone: The Level B Take Zone extends from the Exclusion Zone to the Behavior Zone radius. Detonation shall occur if a protected species is within the Level B Take Zone. Any protected species within this zone shall be monitored continuously and, if they are within the Level B Take Zone during detonation, then they shall be recorded on monitoring forms. Note that the Level B Take Zone should begin immediately beyond the end of the Level A Take Zone. However, the USACE proposes to implement an Exclusion Zone. Also, the area immediately beyond the Level B Take Zone shall also be monitored for protected species.

• No blasting shall occur within East Channel if dolphins or any other protected species are present within the East Channel (Note: The Level A harassment zone is entirely within the East Channel, which is why no Level A harassment is proposed for authorization);

• Protected species observers (PSOs) shall begin the watch program at least one hour prior to the scheduled start of the blasting activities, and will continue for at least one half hour after blast activities have completed;

• The watch program shall consist of a minimum of six PSOs with a designated lead observer. Each observer shall be equipped with a two-way radio that shall be dedicated exclusively to the watch. Extra radios shall be available in case of failures. All of the observers shall be in close communication with the blasting subcontractor in order to halt the blast event if the need arises. If all observers do not have working radios and cannot contact the primary observer and the blasting subcontractor during the pre-blast watch, the blast shall be postponed until all observers are in radio contact. Observers will also be equipped with polarized sunglasses, binoculars, a red flag for backup visual communication, and a sighting log with a map to record sightings;

• All blasting events will be weather dependent. Climatic conditions must be suitable for adequate viewing conditions. Blasting will not commence in rain, fog or otherwise poor weather conditions, and can only commence when the entire Level A Take Zone, Exclusion Zone, and Level B Take Zone are visible to observers;

• The PSO program will also consist of a continuous aerial survey conducted as approved by the Federal Aviation Administration (FAA). The blasting event shall be halted if an animal is spotted approaching or within the Exclusion Zone. An ''all-clear'' signal must be obtained from the aerial observer before detonation can occur. Note that all observers must give the ''all-clear'' signal before blasting can commence. The blasting event shall be halted immediately upon request of any of the observers. If animals are sighted, the blast event shall not take place until the animal moves out of the Exclusion Zone on its own volition. Animals shall not be herded away or harassed into leaving. Specifically, the animals must not be intentionally approached by project watercraft. Blasting may only commence when 30 minutes have passed without an animal being sighted within or approaching the Exclusion Zone or Level A Take Zone;

• If multiple blast events take place in one day, blast events shall be separated by a minimum of six hours;

• After each blast, the observers and contractors shall meet and evaluate any problems encountered during blasting events and logistical solutions shall be presented to the Contracting Officer. Corrections to the watch shall be made prior to the next blasting event. If any one of the aforementioned conditions (bullet points directly above) is not met prior to or during the blasting, the contractor as advised by the watch observers shall have the authority to terminate the blasting event, until resolution can be reached with the Contracting Officer. The USACE will contact FWC, USFWS and NMFS;

• If an injured or dead protected species is sighted after the blast event, the watch observers shall contact the USACE and the USACE will contact the resource agencies at the following phone numbers:

○ FWC through the Manatee Hotline: 1–888–404–FWCC and 850–922–4300;

○ USFWS Jacksonville: 904–731–3336;

○ NMFS Southeast Region: 772–570–5312, and Emergency Stranding Hotline—1–877–433–8299.

• The observers shall maintain contact with the injured or dead protected species to the greatest extent practical until authorities arrive. Blasting shall be postponed until consultations are completed and determinations can be made of the cause of injury or mortality. If blasting injuries are documented, all demolition activities shall cease. The USACE will then submit a revised plan to FWC, NMFS and USFWS for review.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

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

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

• Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);

• Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);

• Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;

• How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;

• Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and

• Mitigation and monitoring effectiveness.

With some exceptions, the USACE will rely upon the same monitoring protocol developed for the Port of

Miami project in 2005 (Barkaszi, 2005) and published in Jordan *et al.,* 2007. A summary of that protocol is summarized here.

A watch plan will be formulated based on the required monitoring radii and optimal observation locations. The watch plan will consist of at least six observers including at least one (1) aerial observer, two (2) boat-based observers, and two (2) observers stationed on the drill barge (Figures 12, 13, 14, & 15). The 6th observer will be placed in the most optimal observation location (boat, barge or aircraft) on a day-by-day basis depending on the location of the blast and the placement of dredging equipment. There shall also be one lead observer. This process will insure complete coverage of the three zones as well as any critical areas. The watch will begin at least 1 hour prior to each blast and continue for one half-hour after each blast (Jordan *et al* 2007).

Boat-based observers will be placed on vessels with viewing platforms. The boat observers will cover the Level B Take Zone where waters are deep enough to safely operate the vessel. The aerial observer will fly in a helicopter with doors removed at an average height of 500 ft. The helicopter will drop lower if they need to identify something in the water. This will provide maximum visibility of all zones as well as exceptional maneuverability and the needed flexibility for continual surveillance without fuel stops or down time, and the ability to deliver post-blast assistance. The area being monitored is a high traffic area, surrounded by an urban environment where animals are potentially exposed to multiple overflights daily, and prior experience has shown that this activity is not anticipated to result in take of marine mammals in the area.

As previously stated, blasting cannot commence until the entire Level A Take Zone, Exclusion Zone, and Level B Take Zone are visible to monitors, and would not commence in rain, fog, or other adverse weather conditions. The visibility below the surface of the water is naturally poor, so animals are not anticipated to be seen below the surface. However, animals surfacing in these turbid conditions are still routinely spotted from the air and from the boats, thus the overall observer program is not compromised, only the degree to which animals are tracked below the surface. Observers must confirm that all protected species are out of the Exclusion Zone and the Level A Take Zone for 30 minutes before blasting can commence.

All observers will be equipped with marine-band VHF radios, maps of the blast zone, polarized sunglasses, and appropriate data sheets. Communications among observers and with the blaster is critical to the success of the watch plan. The aerial observer will be in contact with vessel and drill-barge based observers as well as the drill barge crew with regular 15-minute radio checks throughout the watch period. Constant tracking of animals spotted by any observer will be possible due to the amount and type of observer coverage and the communications plan. Watch hours will be restricted to between two hours after sunrise and one hour before sunset. The watch will begin at least one hour prior to the scheduled blast and is continuous throughout the blast. Watch continues for at least 30 minutes post blast at which time any animals that were seen prior to the blast are visually re-located whenever possible and all observers in boats and in the aircraft assisted in cleaning up any blast debris.

If any protected species are spotted during the watch, the observer will notify the lead observer, aerial observer, and/or the other observers via radio. The animal will be located by the aerial observer to determine its range and bearing from the blast pattern. Initial locations and all subsequent observations will be plotted on maps. Animals within or approaching the Exclusion Zone will be tracked by the aerial and boat based observers until they exit the Exclusion Zone. As stated earlier, animals that exit the Exclusion Zone and enter the Level B Take Zone will also be monitored. The animal's heading shall be monitored continuously until it is confirmed beyond the Level B Take Zone. Anytime animals are spotted near the Exclusion Zone, the drill barge and lead observer will be alerted as to the animal's proximity and some indication of any potential delays it might cause.

If an animal is spotted inside the Exclusion Zone and not re-observed, no blasting will be authorized until at least 30 minutes has elapsed since the last sighting of that animal. The watch will continue its countdown up until the T-minus five (5) minute point. At this time, the aerial observer will confirm that all animals are outside the Exclusion Zone and that all holds have expired prior to clearing the drill barge for the T-minus five (5) minute notice. A fish-scare charge will be fired at T-minus five (5) minutes and T-minus one (1) minute to minimize effects of the blast on fish that may be in the area of the blast pattern by scaring them from the blast area.

An actual postponement in blasting will only occur when a protected species is located within or is approaching the Exclusion Zone at the point where the blast countdown reaches the T-minus five (5) minutes. At that time, if an animal is in or near the Exclusion Zone, the countdown will be put on hold until the Exclusion Zone is completely clear of protected species and all 30-minute sighting holds have expired.

Within 30 days after completion of all blasting events, the primary PSO shall submit a report to the USACE, who will provide it to FWC, NMFS and USFWS providing a description of the event, number and location of animals seen and what actions were taken when animals were seen. Any problems associated with the event and suggestions for improvements shall also be documented in the report.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

For reasons stated previously in this document, the specified activities associated with the USACE's confined blasting activities in the East Channel of Big Bend Channel, Tampa Harbor are not likely to cause PTS, or other non-

auditory injury, gastro-intestinal injury, lung injury, serious injury, or death to affected marine mammals. As a result, no take by injury, serious injury, or death is anticipated or authorized, and the potential for temporary or permanent hearing impairment is very low and would be minimized through the incorporation of the required monitoring and mitigation measures.

Approximately 244 instances of take to some smaller number of Atlantic bottlenose dolphins from the Tampa Bay Stock are anticipated to occur in the form of short-term, minor, hearing impairment (TTS) and associated behavioral disruption due to the instantaneous duration of the confined blasting activities. While some other species of marine mammals may occur in the Tampa Harbor, only common bottlenose dolphins are anticipated to be potentially impacted by the USACE's confined blasting activities.

For bottlenose dolphins within the proposed action area, there are no known designated or important feeding and/or reproductive areas in the proposed project area, which consists of a man-made channel with a history of maintenance dredging. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24-hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). The USACE's proposed confined blasting action at the Tampa Harbor, Big Bend Channel's East Channel includes up to two planned blasting events per day over multiple days; however, they are very short in duration and in a relatively small area surrounding the blast holes (compared to the range of the animals) located solely with the East Channel, and are only expected to potentially result in momentary exposures and reactions by marine mammals in the proposed action area, which would not be expected to accumulate in a manner that would impact reproduction or survival.

Atlantic common bottlenose dolphins are the only species of marine mammals under NMFS jurisdiction that are likely to occur in the proposed action area. They are not listed as threatened or endangered under the ESA; however the BSE stocks are considered strategic under the MMPA. To reduce impacts on these stocks (and other protected species in the proposed action area), the USACE must delay operations if animals enter designated zones, and will not conduct blasting if any dolphins (or other protected species) are located within the East Channel. Due to the nature, degree, and context of the Level B harassment anticipated and described in this notice (see ''Potential Effects on Marine Mammals and Their Habitat'' section above), the activity is not expected to impact rates of recruitment or survival for any affected species or stock, particularly given NMFS's and USACE's plan to implement mitigation, monitoring, and reporting measures to minimize impacts to marine mammals. Also, the confined blasting activities are very short in duration and there are no known important areas in the USACE's proposed action area. Additionally, the proposed confined blasting activities would not adversely impact marine mammal habitat.

As mentioned previously, NMFS estimates that one species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment is estimated to be 564 individuals. To protect these marine mammals in the proposed action area, USACE would be required to cease or delay confined blasting activities if any marine mammals enters designated exclusion zone.

NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting the confined blasting activities in the East Channel of the Big Bend Channel in the Tampa Harbor may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of common bottlenose dolphins.

While behavioral modifications, including temporarily vacating the area immediately after confined blasting operations, may be made by these species to avoid the resultant underwater acoustic disturbance, alternate areas are available within this area and the confined blasting activities will be instantaneous and sporadic in duration. Due to the nature, degree, and context of Level B harassment anticipated, the proposed activity is not expected to impact rates of annual recruitment or survival of any affected species or stock, particularly given the NMFS and applicant's proposal to implement mitigation and monitoring measures that would minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from USACE's proposed confined blasting operations would have a negligible impact on the affected marine mammal species or stocks.

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

- No mortality is anticipated or authorized;
- No injury is anticipated or authorized;
- Take is limited to Level B harassment, and would be expected to be mainly temporary and short-term behavioral disturbance and potential for a small number of TTS takes;
- The USACE's proposed confined blasting activities within the East Channel includes up to two planned blasting events per day over multiple days (up to a maximum of 42 blast events total), but these would be very short in duration and in a small area relative to the range of the animals; and
- While temporary short-term avoidance of the area may occur due to blasting activities, the proposed project area does not represent an area of known biological importance such that temporary avoidance would constitute an impact to the foraging, socialization, and resting activities of bottlenose dolphins.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the

number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

As noted above, the number of instances of take proposed for authorization equates to approximately 43 percent of the estimated stock abundance if each instance represents a different individual marine mammal. However, as noted above, NMFS anticipates that the calculated number of exposures represents some repeated exposures of some individuals; in other words, the number of exposures is likely an overestimate of individuals. Urian *et al.* (2009) studied fine-scale population structure of bottlenose dolphins in Tampa Bay, and concluded that there are five discrete communities (that are not defined as separate stocks) of bottlenose dolphins in Tampa Bay. They found significant differences in location and association patterns among these communities and note that all five communities differed significantly in latitude, longitude, or both. Based on the range patterns of these discrete communities, only one of these communities, Community 5, is expected to occur in the USACE proposed project area. The other four communities range farther south of the proposed project location. In addition, Community 5 appeared to be the smallest community of the five identified communities. Therefore, we conclude that the takes associated with the USACE proposed confined blasting actually represents no more than 20 percent of the total Tampa Bay stock of bottlenose dolphins.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Southeast Region (SERO) Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to USACE for conducting confined blasting activities within the East Channel of the Big Bend Channel, located in the Tampa Harbor, Hillsborough Bay (part of Tampa Bay). The proposed IHA will be valid from April 1, 201 through March 31, 2020, but blasting activities shall only occur April 1 through October 31 annually, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued):

U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida (FL) 32232, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to blasting operations in the East Channel of the Big Bend Channel as part of the Tampa Harbor Big Bend Channel Expansion Project in Hillsborough Bay (part of Tampa Bay) in Hillsborough County, Florida:

1. This Authorization is valid from April 1, 2019, through March 31, 2020, but blasting may occur only between April 1 and October 31, annually unless the U.S. Fish and Wildlife Service (USFWS) grants an extension of the blasting period.

2. This Authorization is valid only for the U.S. Army Corps of Engineers (USACE) activities associated with the blasting within the East Channel of the Big Bend Channel in the Tampa Harbor in Hillsborough County, Florida.

3. Species Authorized and Level of Takes

(a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of Hillsborough Bay (part of Tampa Bay) and the Atlantic Ocean:

(i) Odontocetes—244 takes from the Tampa Bay Stock of Atlantic bottlenose dolphin (*Tursiops truncatus*).

(ii) If any marine mammal species under NMFS jurisdiction other than bottlenose dolphin are encountered during blasting operations and are likely to be exposed to sound thresholds equal to or greater than Level B harassment, then the Holder of this Authorization must delay or suspend blasting operations to avoid take.

(b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Condition 3(a) above or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

4. The methods authorized for taking by Level B harassment are limited to explosives with a maximum charge weight per delay of 40 lb (18.1 kg).

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Office of Protected Resources, National Marine Fisheries Service (NMFS), at 301–427–8401.

6. Mitigation and Monitoring Requirements

The Holder of this Authorization is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

(a) The USACE must ensure that the Florida Fish and Wildlife Conservation Commission (FWC), the U.S. Fish and Wildlife Service (USFWS), and NMFS (Headquarters Protected Resources Division and SERO Protected Resources) are provided the contractor's approved blasting plan for review prior to any blasting activities. This blasting proposal must include information concerning a watch program and details of the blasting events. This information must be submitted at least 30 days prior to the proposed date of the blast(s) to the following addresses:

(i) FWC–ISM, 620 South Meridian Street, Mail Stop 6A, Tallahassee, FL 32399–1600 or *ImperiledSpecies@myfwc.com* and Dr. Allen Foley *allen.foley@myfwc.com*.

(ii) NMFS Office of Protected Resources, 1315 East West Highway, Silver Spring, MD 20910.

(iii) NMFS Southeast Regional Office (SERO), Protected Species Management Branch, 263 13th Avenue South, St. Petersburg, FL 33701, and

(iv) USFWS, 1339 20th Street, Vero Beach, FL 32960–3559.

(b) The contractor's blasting plan shall include at least the following information:

(i) A list of Protected Species Observers (PSOs), their qualifications, and positions for the watch, including a map depicting the proposed locations for boat or land-based PSOs. NMFS-qualified PSOs must have prior on-the-job experience observing for marine mammals and other protected species during previous in-water blasting events where the blasting activities were similar in nature to the blasting project in the Tampa Harbor.

(ii) The amount of explosive charge proposed, the explosive charge's equivalency in TNT, how it will be executed (depth of drilling, stemming, in-water, etc.), a drawing depicting the placement of the charges, size of the exclusion zone, and how it will be marked (also depicted on a map), tide tables for the blasting event(s), and estimates of times and days for blasting events (with an understanding this is an estimate, and may change due to weather, equipment, etc.).

(c) The USACE shall notify SERO (Ms. Laura Engleby, Marine Mammal Branch Chief, *nmfs.ser.research.notification@noaa.gov*) and FWC (Dr. Allen Foley, *allen.foley@myfwc.com*) at the initiation and completion of all in-water blasting.

(d) A test blast program shall be completed prior to implementing a construction blasting program. The test blast program shall have all the same monitoring and mitigation measures in place for marine mammals and other protected species (see below).

(e) The weight of explosives to be used in each blast shall be limited to the lowest poundage of explosives that can adequately break the rock.

(f) The explosives shall be confined in a hole with drill patterns (*i.e.,* holes in the pattern) that are restricted to a minimum of 8 ft (2.4 m) separation from a loaded hole.

(g) The hours of blasting shall be restricted from two hours after sunrise to one hour before sunset to ensure adequate observation of marine mammals in the project area.

(h) Select explosive products and their practical application method to address vibration and air blast (overpressure) control for protection of existing structures and marine wildlife.

(i) Loaded blast holes shall be individually delayed to reduce the maximum lbs per delay at point detonation (in order to spread the explosive's total pressure over time), which in turn will reduce the mortality radius. Delay timing adjustments with a minimum of eight milliseconds (ms) between delay detonations to stagger the blast pressures and prevent cumulative addition of pressures in the water.

(j) The USACE shall require the contractor to cap the hole containing explosives with rock in order to spread the explosive's outward potential of the blast and total overpressure over time, thereby reducing the chance of injuring a marine mammal or other protected species.

(k) The blast design shall match, to the extent possible, the energy needed in the ''work effort'' of the borehole to the rock mass to minimize excess energy vented into the water column or hydraulic shock.

(l) Due to USFWS requirements, blasting operations shall not occur during the period from November 1 through March 31 (due to the increased likelihood of manatees (*Trichechus manatus latirostris*) being present within the project area).

(m) Calculate, establish, and monitor a Level A Take Zone (equal to the PTS injury zone), Exclusion (*i.e.,* the Level A Take Zone plus 500 ft [152.4 m], and a Level B Take Zone (extending from the Exclusion Zone to the Level B Take Zone radius). All of the zones shall be noted by buoys for each of the blasts.

(n) The watch program shall begin at least one hour prior to the scheduled start of blasting to identify the possible presence of marine mammals and is continuous throughout the blast. The watch program shall continue for at least 30 minutes after detonations are complete.

(o) The watch program shall consist of a minimum of six NMFS-qualified PSOs (at least one aerial-based PSO, two boat-based PSOs, two drill barge-based PSOs, and one PSO placed in the most optimal observation location on a day-by-day basis depending on the location of the blast and the placement of dredging equipment). NMFS-qualified PSOs must be approved in advance by NMFS's Office of Protected Resources, to record the effects of the blasting and dredging activities and the resulting noise on marine mammals. Each PSO shall be equipped with a two-way marine-band VHF radio that shall be dedicated exclusively to the watch. Extra radios shall be available in case of failures. All of the PSOs shall be in close communication with the blasting sub-contractor in order to half the blast event if the need arises. If all PSOs do not have working radios and cannot contact the primary PSO and the blasting sub-contractor during the pre-blast watch, the blast shall be postponed until all PSOs are in radio contact. PSOs shall be equipped with polarized sunglasses, binoculars, a red flag for back-up visual communication, and appropriate data sheets (*i.e.,* a sighting log with a map) to record sightings and other pertinent data. All blasting events are weather dependent and conditions must be suitable for optimal viewing conditions to be determined by the PSOs.

(p) The watch program shall include a continuous aerial survey to be conducted by aircraft, as approved by the Federal Aviation Administration. The aerial-based PSO is in contact with vessel and drill barge-based PSOs and the drill barge with regular 15-minute radio checks through the watch period. The aerial PSO shall fly in a turbine engine helicopter with the doors removed to provide maximum visibility of the zones.

(q) Boat-based PSOs shall be placed on one of two vessels, both of which have attached platforms that place the PSOs eyes at least 10 ft (3 m) above the water surface enabling optimal visibility of the water from the vessels. The boat-based PSOs cover the Exclusion Zone and Level B Take Zone where waters are deep enough to safely operate.

(r) If any marine mammals are spotted during the watch, the PSO shall notify the aerial-based PSO and/or other PSOs via radio. The animal(s) shall be located by the aerial-based PSO to determine its range and bearing from the blast pattern. Initial locations and all subsequent re-acquisitions shall be plotted on maps. Animals within or approaching the Exclusion Zone are tracked by the aerial and boat-based PSOs until they have exited the Exclusion Zone, the drill barge shall be alerted as to the animal's proximity and some indication of any potential delays it might cause.

(s) If any animal(s) is sighted inside the Exclusion Zone or Level A Take Zone and not re-acquired, no blasting is authorized until at least 30 minutes has elapsed since the last sighting of that animal(s). The PSOs on watch shall continue the countdown up until the T-minus five minutes point. At this time, the aerial-based PSO confirms that all animals are outside the Exclusion Zone and Level A Take Zone and that all holds have expired prior to clearing the drill barge for the T-minus five minutes notice.

(t) The blasting event shall be halted immediately upon request of any of the PSOs. An ''all clear'' signal must be

obtained from the aerial PSO before the detonation can occur.

(u) If animals are sighted, the blast event shall not take place until the animal moves out of the Exclusion Zone under its own volition. Animals shall not be herded away or harassed into leaving. Specifically, the animals must not be intentionally approached by project watercraft. Blasting may only commence when 30 minutes has passed without an animal being sighted within, or approaching, the Exclusion Zone or Level A Take Zone.

(v) After the blast, any animal(s) seen prior to the blast are visually relocated whenever possible.

(w) The PSOs and contractors shall evaluate any problems encountered during blasting events and logistical solutions shall be presented to the Contracting Officer. Corrections to the watch shall be made prior to the next blasting event. If any one of the aforementioned conditions is not met prior to or during the blasting, the watch PSOs shall have the authority to terminate the blasting event. If any one of the aforementioned conditions is not met prior to or during the blasting, the watch PSOs shall have the authority to terminate the blasting event, until resolution can be reached with the Contracting Officer.

(x) A fish-scare charge shall be fired at T-minus five minutes and T-minus one minute to minimize effects of the blast on fish that may be in the same area of the blast pattern by scaring them from the blast area.

(y) The Contractor shall use hydrophones to record the SEL and SPL associated with up to 42 confined blasting events. The Contractor shall also record the associated work (including borehole drilling and fish scare charges) as separate recordings. The Contractor shall provide nearby hydrophone records of drilling operation of 30 minutes over three early contract periods at least 18 hours apart. The Contractor shall provide hydrophone or transducer records within the contract area of three 10-minute quiet periods (not necessarily continuous) over three early contract periods at least 18 hours apart or prior to the contractor's full mobilization to the site, and 10 close-approaches of varied vessel sizes. Information to be provided as both an Excel file and recording for each hydrophone (.wav file) shall include:

- GPS location of the hydrophone aboard the vessel. The hydrophone shall be located outside of the range that would cause clipping (overloading of the hydrophone, causing the absolute peaks to be lost).
- Water depth to the sediment/rock bottom. The hydrophone shall be placed at the shallower of 3 m (9.84 ft, or 9 ft, 10 inches) depth or the mid-water column depth.
- Information provided by the Blasting Contractor regarding the blast pattern or drilling. The minimum data shall include, as appropriate for blast shots or drilling; the date, time and blast number of the shot; the average water depth of the shot pattern or the average depth to sediment/rock at the nearest five shot holes closest to the hydrophone location; GPS location of the closest shot hole in the blast pattern to the hydrophone; the maximum charge weight per delay of the shot pattern in pounds of explosives; and the largest charge weight per delay of the closest delay sequence to the hydrophone.

7. Reporting Requirements

The Holder of this Authorization is required to:

(a) Submit a draft report on all activities and monitoring results to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, within 90 days after completion of the demolition and removal activities. This report must contain and summarize the following information:

(i) Dates, times, locations, weather, sea conditions during all blasting activities and marine mammal sightings;

(ii) Species, number, location, distance, and behavior of any marine mammals, as well as associated blasting activities, observed before, during, and after blasting activities.

(iii) An estimate of the number (by species) of marine mammals that may have been taken by Level B harassment during the blasting activities with a discussion of the nature of the probably consequences of that exposure on the individuals that have been exposed. Describe any behavioral responses or modifications of behaviors that may be attributed to the blasting activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Incidental Harassment Authorization as well as any additional conservation recommendations.

(b) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

(c) In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury, serious injury or mortality, USACE shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation, Office of Protected Resources and the NMFS Southeast Region Marine Mammal Stranding Network. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident; description of the incident; status of all noise-generating source use in the 24 hours preceding the incident; water depth; environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility); description of all marine mammal observations in the 24 hours preceding the incident; species identification or description of the animal(s) involved; fate of the animal(s); and photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with USACE to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. USACE may not resume their activities until notified by NMFS via letter or email, or telephone.

In the event that USACE discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), USACE shall immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Southeast Region Marine Mammal Stranding Network. The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with USACE to determine whether modifications in the activities are appropriate.

In the event that USACE discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), USACE shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NMFS Southeast Region Marine Mammal Stranding Network within 24 hours of discovery. USACE shall provide photographs or video footage (if

available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

8. To the greatest extent feasible, USACE is encouraged to coordinate its monitoring studies on the distribution and abundance of marine mammals in the project area with the NMFS's Southeast Fisheries Science Center, USFWS, and any other state or Federal agency conducting research on marine mammals. Also, report to NMFS and USFWS any chance observations of marked or tag-bearing marine mammals or carcasses, as well as any rare or unusual species of marine mammals.

9. A copy of this Authorization must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed confined blasting activities within the East Channel of the Big Bend Channel, Tampa Harbor. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: March 14, 2018.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–05504 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Ocean and Atmospheric Administration

Proposed Information Collection; Comment Request; U.S. Caribbean Commercial Fishermen Census

AGENCY: National Ocean and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before May 18, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Juan J. Agar, (305) 361–4218 or *Juan.Agar@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection.

The National Marine Fisheries Service (NMFS) proposes to conduct a census of small-scale fishermen operating in the United States (U.S.) Caribbean. The extension for the data collection applies only to the Commonwealth of Puerto Rico because the data collection was completed in the U.S. Virgin Islands. The proposed socio-economic study will collect information on demographics, capital investment in fishing gear and vessels, fishing and marketing practices, economic performance, and miscellaneous attitudinal questions. The data gathered will be used for the development of amendments to fishery management plans, which require descriptions of the human and economic environment and socio-economic analyses of regulatory proposals. The information collected will also be used to strengthen fishery management decision-making and satisfy various legal mandates under the Magnuson-Stevens Fishery Conservation and Management Act (U.S.C. 1801 *et seq.*), Executive Order 12866, Regulatory Flexibility Act, Endangered Species Act, and National Environmental Policy Act, and other pertinent statues.

II. Method of Collection

The socio-economic information will be collected through in-person, telephone and mail surveys.

III. Data

OMB Control Number: 0648–0716.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,500.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 750.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 14, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–05510 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG084

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Caribbean Fishery Management Council will hold its 162nd meeting in April to discuss the items contained in the agenda in the **SUPPLEMENTARY INFORMATION**.

DATES: The meetings will be held on April 3–4, 2018, from 9 a.m. to 5 p.m.

ADDRESSES: The meetings will be held at the Marriott Resort San Juan Stellaris Casino Hotel, 1309 Ashford Avenue, Condado, San Juan, Puerto Rico 00907.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION:

April 3, 2018, 9 a.m.–5 p.m.

- Call to Order
- Adoption of Agenda
- Consideration of 161th Council Meeting Verbatim Transcriptions
- Executive Director's Report
- Scientific and Statistical Committee (SSC)) Meeting Report—Richard Appeldoorn
- Island-based Fishery Management Plans:
  - —Action 1: Review of Stocks to be Managed
  - —Action 2: Review of Proposed Stock Complexes
  - —Action 3: Management Reference Points for Stocks/Stock complexes in each of the Puerto Rico, St. Thomas/St. John and St Croix FMPs
  - —Tiered Acceptable Biological Catch (ABC) Control Rule—Language changes
  - —Process for determining the buffer from the Sustainable Yield Level (SYL) (instead of overfishing limit (OFL)) to ABC (scientific uncertainty buffer) used in the Tiered ABC Control Rule.
  - —Results from the application of Acceptable Biological Catch (ABC) Control Rule
  - —Action 4: Essential Fish Habitat for Stocks Not Previously Managed in Federal Waters
  - —Action 5: Framework Measures
  - —Next Steps/Timeline Review
- Other Business
  - —Public Comment Period—(5-minutes presentations)

April 3, 2018, 5:30 p.m.–6:30 p.m.

- Closed Session

April 4, 2018, 9 a.m.–5 p.m.

- Outreach and Education Report—Alida Ortiz
- Emergency Location and Removal of Lost Fishing Gear in Puerto Rico: Avoiding Long Term Impacts of Ghost Gear'' Raimundo Espinoza.
- Enforcement Issues:
  - —Puerto Rico-DNER
  - —U.S. Virgin Islands-DPNR
  - —U.S. Coast Guard
  - —NMFS/NOAA
- Meetings Attended by Council Members and Staff
- Other Business
  - —Public Comment Period—(5-minute presentations)
- Next Meeting

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The meeting will begin on April 3, 2018 at 9 a.m. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated. In addition, the meeting may be extended from, or completed prior to the date established in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 766–5926, at least 5 days prior to the meeting date.

Dated: March 14, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–05474 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0649–XG086

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting of its Shrimp Advisory Panel.

DATES: The meeting will convene on Thursday, April 5, 2018, from 8:30 a.m. to 5 p.m. EDT.

ADDRESSES: The meeting will take place at the Gulf Council office.

Council address: Gulf of Mexico Fishery Management Council, 2203 N Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Morgan Kilgour, Fishery Biologist, Gulf of Mexico Fishery Management Council; *morgan.kilgour@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Thursday, April 5, 2018; 8:30 a.m.–5 p.m., EDT

I. Agenda
II. Approval of minutes from March 3, 2016 meeting
III. Plan of work
IV. Biological review of the Texas closure
V. Review of the new stock assessments for brown, white and pink shrimp
  a. Update on shrimp catch, effort, CPUE, turtle threshold update, and juvenile red snapper effort threshold
VI. Review of the Ph.D. of Coral Amendment 9
  a. SSC recommendations
  b. LETC recommendations
VII. Other Business
  a. Discussion of hurricane(s) impact on shrimp industry
  b. Discussion of SPGM permit renewal process
— Meeting Adjourns—

You may register for Shrimp Advisory Panel meeting on Thursday, April 5, 2018 at: *https://attendee.gotowebinar*.com/register/*3132249531534668290*.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's website and click on the FTP link in the lower left of the Council website (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''AP Meeting_Shrimp-2018–04''.

The meeting will be webcast over the internet. A link to the webcast will be available on the Council's website, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: March 14, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–05475 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: National Marine Sanctuary Permits.

OMB Control Number: 0648–0141.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 555.

Average Hours per Response: General permits, 1 hour and 30 minutes; special use permits, 8 hours; historical resources permits, 13 hours; baitfish permits and lionfish removal permits, 5 minutes; permit amendments and certifications, 30 minutes; voluntary registrations, 15 minutes; appeals, 24 hours; Tortugas access permits, 6 minutes.

Burden Hours: 2,095.

Needs and Uses: This request is for extension of a currently approved information collection.

National marine sanctuary regulations at 15 CFR part 922 list specific activities that are prohibited in national marine sanctuaries. These regulations also state that otherwise prohibited activities are permissible if a permit is issued by the Office of National Marine Sanctuaries (ONMS). Persons desiring a permit must submit an application, and anyone obtaining a permit is generally required to submit one or more reports on the activity allowed under the permit.

The recordkeeping and reporting requirements at 15 CFR part 922 form the basis for this collection of information. This information is required by ONMS to protect and manage sanctuary resources as required by the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*).

Affected Public: Business or other for-profit organizations; individuals or households; not-for-profit institutions; Federal government; state, local, or tribal government.

Frequency: Annually and on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: March 14, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–05507 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG089

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet April 5–11, 2018. The Pacific Council meeting will begin on Friday, April 6, 2018 at 9 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. each day through Wednesday, April 11, 2018. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m., Friday, April 6 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be held at the Sheraton Portland Airport Hotel, 8235 NE Airport Way, Portland, OR; telephone: (503) 281–2500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: (503) 820–2280 or (866) 806–7204 toll-free; or access the Pacific Council website, *http://www.pcouncil.org* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The April 6–11, 2018 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. PDT Friday, April 6, 2018 and continue at 8 a.m. daily through Wednesday, April 11, 2018. Broadcasts end daily at 5 p.m. PDT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online, please use the following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the April Webinar ID, 530–089–227, and your email address. You can attend the webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio-only portion of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–562–247–8321 (not a toll-free number), audio access code 240–052–611, and entering the audio pin shown after joining the webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance April 2018 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than March 26, 2018.

A. Call to Order
  1. Opening Remarks
  2. Roll Call
  3. Executive Director's Report
  4. Approve Agenda
B. Open Comment Period
  1. Comments on Non-Agenda Items
C. Coastal Pelagic Species Management

1. National Marine Fisheries Service Report
2. 2018 Exempted Fishing Permits (EFPs)—Final Approval
3. Acoustic Trawl Survey Methodology Review—Final Approval
4. Process for Review of Reference Points for Monitored Stocks
5. Pacific Sardine Assessment, Harvest Specifications, and Management Measures—Final Action

D. Habitat
1. Current Habitat Issues

E. Salmon Management
1. Tentative Adoption of 2018 Management Measures for Analysis
2. Clarify Council Direction on 2018 Management Measures
3. Methodology Review Preliminary Topic Selection
4. Further Direction on 2018 Management Measures
5. Final Action on 2018 Management Measures

F. Groundfish Management
1. National Marine Fisheries Service Report
2. Biennial Harvest Specifications for 2019–2020 Fisheries—Final Action
3. Essential Fish Habitat (EFH) and Rockfish Conservation Area (RCA) Amendment 28—Final Action—Part 1 and Part 2
4. Cost Recovery Report
5. Preliminary Preferred Management Measure Alternatives for 2019–2020 Fisheries
6. Inseason Adjustments—Final Action

G. Pacific Halibut Management
1. Incidental Catch Limits for 2018 Salmon Troll Fishery—Final Action

H. Administrative Matters
1. Legislative Matters
2. Membership Appointments and Council Operating Procedures
3. Future Council Meeting Agenda and Workload Planning

I. Enforcement
1. Annual U.S. Coast Guard Fishery Enforcement Report

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Monday, March 26, 2018.

Schedule of Ancillary Meetings

Day 1—Thursday, April 5, 2018

Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Habitat Committee—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Model Evaluation Workgroup—10 a.m.
Legislative Committee—1 p.m.
Groundfish Management Team—1 p.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc

Day 2—Friday, April 6, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Habitat Committee—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Scientific and Statistical Committee—8 a.m.
Enforcement Consultants—3 p.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc

Day 3—Saturday, April 7, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Coastal Pelagic Species Advisory Subpanel—8 a.m.
Coastal Pelagic Species Management Team—8 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc
Enforcement Consultants—Ad Hoc

Day 4—Sunday, April 8, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc
Enforcement Consultants—Ad Hoc

Day 5—Monday, April 9, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc
Enforcement Consultants—Ad Hoc

Day 6—Tuesday, April 10, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Groundfish Advisory Subpanel—8 a.m.
Groundfish Management Team—8 a.m.
Salmon Advisory Subpanel—8 a.m.
Salmon Technical Team—8 a.m.
Tribal Policy Group—Ad Hoc
Tribal and Washington Technical Group—Ad Hoc
Enforcement Consultants—Ad Hoc

Day 7—Wednesday, April 11, 2018

California State Delegation—7 a.m.
Oregon State Delegation—7 a.m.
Washington State Delegation—7 a.m.
Salmon Technical Team—8 a.m.

Although non-emergency issues not contained in this agenda may come before the Pacific Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280, ext. 411 at least 10 business days prior to the meeting date.

Dated: March 14, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–05476 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Ombudsman Survey

ACTION: Revision of a currently approved collection, comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an existing information collection.

DATES: Written comments must be submitted on or before May 18, 2018.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0078 comment'' in the subject line of the message.
- *Federal Rulemaking Portal: http://www.regulations.gov.*
- *Mail:* Marcie Lovett, Records and Information Governance Division Director, Office of the Chief Technology Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Michael Easdale, Office of Patent Quality Assurance, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–3533; or by email to *Michael.Easdale@uspto.gov* with ''0651–0078 comment'' in the subject line. Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

In 2011, the United States Patent and Trademark Office (USPTO) designed and developed the Patents Ombudsman Program in response to customer feedback that the prosecution of patent applications does not always advance in accordance with established procedures. The USPTO implemented the Ombudsman program to assist patent applicants, attorneys, and agents in resolving problems, issues, and concerns arising during the prosecution of a patent application. The objectives of the Patents Ombudsman Program are to: (1) Facilitate complaint-handling for pro se applicants and applicant's representatives whose applications have stalled in the examination process; (2) track complaints to ensure each is handled within ten business days; (3) provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends; and (4) build a publicly accessible database of frequently asked questions that address commonly seen problems and provide effective resolutions. Participation in the Ombudsman program is voluntary and does not preclude the applicant's use of other avenues for redress of issues, including the filing of various patent process petitions. The program averages over 3,000 requests for assistance from approximately 1,800 unique customers each year. The Ombudsman program is free and open to all participants in the patenting process.

This collection covers information gathered on the Ombudsman Survey. This survey is a key component in the USPTO's evaluation of the Ombudsman program, providing a mechanism to monitor the effectiveness of the program and identify potential opportunities for enhancement of the Ombudsman process. This survey allows USPTO to gain consistent, reliable, and representative information from customers who use the Ombudsman program. The survey consists of 9 questions, and is sent every Spring to applicants/attorneys who have provided an email address and utilized the Ombudsman program within the past fiscal year. The survey is accessed through individualized links that are uniquely tied to the survey participants thereby eliminating the need for passwords, user IDs, or usernames to access the surveys. The survey period is open for a period of five (5) weeks. Customers not responding within the initial three (3) weeks will be sent a second email message and link seeking their participation.

There are no statutes or regulations requiring the USPTO to conduct this usage and satisfaction measurement. The USPTO uses the survey instrument to implement Executive Order 12862 of September 11, 1993, Setting Customer Service Standards, published in the **Federal Register** on September 14, 1993 (Vol. 58, No. 176).

II. Method of Collection

Web-based survey.

III. Data

OMB Number: 0651–0078.

IC Instruments and Forms: No form numbers.

Type of Review: Revision of a Previously Existing Information Collection.

Affected Public: Individuals or households; businesses or other for-profits; and not-for-profit institutions.

Estimated Number of Respondents: 1,100 responses per year. It is estimated that 1,800 unique customers use the Ombudsman program each year, and based on previous surveys, we estimate that the majority of them will respond to future surveys. The number of responses to this survey should adequately represent all Patent Examining Technology Centers.

Estimated Time per Response: The USPTO estimates that it will take the public approximately 5 minutes (0.08 hours) to submit the information in this collection, including the time to access the survey, gather any materials needed, fill out the survey, and submit the completed item to the USPTO.

Estimated Total Annual Respondent Burden Hours: 91.67 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: $33,435.42. The USPTO expects that both professionals and paraprofessionals will complete these surveys, with 75% being completed by professionals and 25% by paraprofessionals. The current professional hourly wage rate is $438 and the rate for paraprofessionals is $145. The professional hourly rate used for the calculation is the average rate for attorneys in private firms as published in the 2016 *Report of the Economic Survey* by the American Intellectual Property Law Association (AIPLA). The paraprofessional hourly rate comes from *2017 National Utilization and Compensation Survey* published by the National Association of Legal Assistants (NALA). Using the combined hourly rate of $364.75, the USPTO estimates that the respondent cost burden for this collection will be $33,435.42 per year as shown in the table below.

IC No.	Item	Estimated time for response (minutes) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) / 60 = (c)	Rate ($/hr) (d)	Estimated annual cost burden (c) × (d) = (e)
1	Ombudsman Survey	5 mins. (0.08 hours)	1,100	91.67	$364.75	$33,435.42
Total			1,100	91.67		33,435.42

Estimated Total Annual (Non-Hour) Respondent Cost Burden: $0. There are no capital start-up, maintenance, postage, or recordkeeping costs associated with this information collection.

IV. Request for Comments

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Marcie Lovett,

Records and Information Governance Division Director, OCTO, United States Patent and Trademark Office.

[FR Doc. 2018–05468 Filed 3–16–18; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2018–OS–0010]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice of a new system of records.

SUMMARY: The Office of the Secretary of Defense proposes to add a system of records entitled, ''Military Spouse Employment Partnership (MSEP) Career Portal, DPR 47 DoD.'' This system is the sole web platform utilized to connect military spouses with companies seeking to hire military spouse employees. Participating companies, called MSEP Partners, are vetted and approved participants in the MSEP Program and have pledged to recruit, hire, promote and retain military spouses in portable careers. MSEP is a targeted recruitment and employment partnership that connects American businesses with military spouses who possess essential 21st-century workforce skills and attributes and are seeking portable, fulfilling careers.

DATES: Comments will be accepted on or before April 18, 2018. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.*

Follow the instructions for submitting comments.

- *Mail:* Department of Defense, Office of the Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense proposes to establish a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. The Military Spouse Employment Partnership (MSEP) Career Portal (DPR 47 DoD) is the sole web platform utilized to connect military spouses with companies seeking to hire military spouse employees. Participating companies, called MSEP Partners, are vetted and approved participants in the MSEP Program and have pledged to recruit, hire, promote and retain military spouses in portable careers. MSEP is a targeted recruitment and employment partnership that connects American businesses with military spouses who possess essential 21st-century workforce skills and attributes and are seeking portable, fulfilling careers. The MSEP program is part of the overall Spouse Education and Career Opportunities (SECO) program which falls under the auspices of the office of the Deputy Assistant Secretary of Defense for Military Community & Family Policy.

This program was developed in compliance with 10 U.S. Code 1784 Employment Opportunities for Military Spouses and DoDI 1342.22, Military Family Readiness.

Users may learn about this program in various ways including through the Military OneSource program, installation service providers, from other military spouses, from other MSEP Partners and via general online searches. Once aware of the program interested spouses may simply access by going online to the following URL: *https://msepjobs.militaryonesource.mil/msep/.*

Military spouses register on the MSEP Career Portal to help connect them to MSEP Partner employers who are hiring. After arriving at the MSEP Career Portal, military spouses are able to review resources, conduct a job search or select to register. All of this information is available on the web portal where the registration process is also completed. Once the military spouse has registered they may choose to make their education and work experience visible to MSEP Partner employers as they are searching for candidates to fill available positions with their company. Prior to providing any information military spouses must first view the Privacy Act Statement and Agency Disclosure Notice. This information displays in a pop-up when a military spouse first clicks into a field on the registration form to provide information. The military spouse must review the information and click to close the pop-up before they can proceed with completing the form.

The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at *http://dpcld.defense.gov/.*

The proposed systems reports, as required by of the Privacy Act, as amended, were submitted on October 3, 2017, to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to Section 6 to OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act,'' revised December 23, 2016 (December 23, 2016, 81 FR 94424).

Dated: March 13, 2018.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER

Military Spouse Employment Partnership (MSEP) Career Portal, DPR 47 DoD.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Personnel and Readiness, Office of Family Readiness Policy, 4800 Mark Center Drive, Alexandria, VA 22350–3500.

SYSTEM MANAGER(S):

MSEP Portal Program Manager, Military Community and Family Policy (MC&FP), 4800 Mark Center Drive, Alexandria, VA 22350–2300, *Osd.msepjobs@mail.mil,* (571) 372–5314.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 1784, Employment opportunities for military spouses; 10 U.S.C. 1784a, Education and training opportunities for military spouses to expand employment and portable career opportunities; and DoD Instruction 1342.22, Military Family Readiness.

PURPOSE(S) OF THE SYSTEM:

MSEP connects military spouses with companies seeking to hire military spouse employees, via comprehensive information, tools and resources. The information provided by military spouses allows MSEP Partner employers to fill available positions with their company with skilled military spouses. Records may also be used as a management tool for de-identified statistical analysis, tracking, reporting, evaluating program effectiveness and conducting research.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participating spouses (hereafter military spouse) of active duty service members in the Army, Marine Corps, Navy, Air Force and Coast Guard, including military spouses of members of the National Guard and Reserve Components in the same status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Military spouse—full name, date of birth, DoD ID number (used for verification purposes only), ethnicity, gender, MSEP Career Portal username, user role and password, email address, current job type, salary, and hourly wage, address, phone number, best time to call, preferred job type, preferred industry of work, minimum desired salary and hourly wage, date planned to begin work, work experience (job title, company name, industry, employment dates, job description and duties, personal experience and achievements), education (degree level, additional degree details, field of study, dates, institution name, summary), credentials/certifications (credential/certification name, date of receipt, state of receipt, institution name, summary). Military sponsor—pay grade, branch of service, status (Active duty, National Guard, and Reserve).

RECORD SOURCE CATEGORIES:

The individual, Defense Enrollment Eligibility Reporting System (DEERS).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. Contractors: To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

b. To MSEP Partners for the purpose of searching for military spouse employment candidates.

c. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

d. Breach Mitigation and Notification: To appropriate agencies, entities, and persons when (1) The Department of Defense (DoD) suspects or has confirmed that the security or confidentiality of the information in the system of records; (2) the DoD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (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 DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

e. Breach Mitigation and Notification: To another Federal agency or Federal entity, when the Department of Defense (DoD) 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.

f. Department of Justice Litigation: To any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department of Defense in pending or potential litigation to which the record is pertinent.

g. Law Enforcement (Investigations): To the appropriate federal, state, local, territorial, tribal, or foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Full name, email address, or MSEP Career Portal username.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are destroyed or deleted when 5 years old or when no longer needed for operational purposes, whichever is later.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The MSEP Career data are housed in the Defense Information System Agency, Defense Enterprise Computing Center and the system is only accessible to authorized personnel. The system is designed with access controls and enforces DoD password and lockout policies. Access to personally identifiable information (PII) is restricted to authorized personnel only with appropriate need to know and the completion of annual information assurance and privacy training. PII data is protected by encryption.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this record system should address inquiries to the Office of the Secretary

of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should include the individual's full name, current address, telephone number, and the name and number of this system of records notice.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense (OSD) rules for accessing records, and for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Director, Office of Family Readiness Policy (OFRP) or Spouse Education and Career Opportunities (SECO) Program Manager, Military Community and Family Policy (MC&FP), 4800 Mark Center Drive, Alexandria, VA 22350–2300.

Signed, written requests should include the individual's full name, current address, and telephone number.

In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)''.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2018–05422 Filed 3–16–18; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board

AGENCY: Office of Postsecondary Education, Historically Black Colleges and Universities Capital Financing Board, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda, time, and location of an upcoming open meeting of the Historically Black Colleges and Universities Capital Financing Advisory Board (Board). Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of the opportunity to attend.

DATES: The Board meeting will be held on Tuesday, April 3, 2018, 10:00 a.m.–2:00 p.m., Central Time, in Room 313 (Bowden Alumni Center), Sutton Learning Center Building, St. Philip's College, 1801 Martin Luther King Drive, San Antonio, TX 78203.

FOR FURTHER INFORMATION CONTACT: Adam H. Kissel, Deputy Assistant Secretary for Higher Education Programs and the Designated Federal Official for the Board, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202; telephone: (202) 453–6808; email: *Adam.Kissel@ed.gov.*

SUPPLEMENTARY INFORMATION:

The Historically Black Colleges and Universities Capital Financing Advisory Board's Statutory Authority and Function: The Historically Black Colleges and Universities Capital Financing Advisory Board (Board) is authorized by Title III, Part D, Section 347 of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f). The Board is established within the Department of Education to provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on historically black college and university campuses and to advise Congress regarding the progress made in implementing the Historically Black Colleges and Universities Capital Financing Program (Program). Specifically, the Board will provide advice as to the capital needs of Historically Black Colleges and Universities, how those needs can be met through the Program, and what additional steps might be taken to improve the operation and implementation of the Program.

Meeting Agenda: The purpose of this meeting is to update the Board on current program activities, set future meeting dates, enable the Board to make recommendations to the Secretary on the current capital needs of Historically Black Colleges and Universities, and discuss recommendations regarding how the Board might increase its effectiveness.

There will be an opportunity for members of the public to provide oral comment on Tuesday, April 3, 2018, 1:00 p.m.–1:30 p.m. Please be advised that comments cannot exceed five (5) minutes and must pertain to issues within the scope of the Board's authority. Members of the public interested in submitting written comments may do so by submitting comments to the attention of Adam H. Kissel, 400 Maryland Avenue SW, Washington, DC, 20202. Comments must be postmarked no later than Tuesday, March 27, 2018, to be considered for discussion during the meeting. Comments should pertain to the work of the Board or the Program.

Access to Records of the Meeting: The official verbatim transcripts of the Board's public meeting will be made available for public inspection no later than 60 calendar days following a meeting.

Pursuant to the FACA, 5 U.S.C. App. as amended, Section 10(b), the public may also inspect meeting materials at *http://www2.ed.gov/about/bdscomm/list/hbcu-finance.html. Reasonable Accommodations:* The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. We will attempt to meet a request received after that date, though, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

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.* At this site you

can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe 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.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Title III, Part D, Section 347, of the Higher Education Act of 1965, as amended in 1998 (20 U.S.C. 1066f).

Frank T. Brogan,

Principal Deputy Assistant Secretary and delegated the duties of the Assistant Secretary, Office of Planning, Evaluation and Policy Development, Delegated the duties of the Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 2018–05535 Filed 3–16–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Request for Information (RFI) on Critical Water Issues Prize Competition

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for Information (RFI).

SUMMARY: The U.S. Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy (EERE), seeks information from the public to understand the key technical and other barriers that may prevent long-term access to low-cost water supplies that could be best addressed through challenges and prize competitions. DOE may use the information provided through this Request for Information (RFI) to develop challenges and prize competitions to address low-cost water problems. For the purposes of this RFI, challenges and prize competitions are tools and approaches the Federal government and others can use to engage a broad range of stakeholders, including the general public, to develop solutions to difficult problems. Challenges and prize competitions rely on competitive structures to drive innovation among participants and usually offer rewards (financial and/or other) to winners and/or finalists. This RFI is not designed to solicit input on DOE's broader water research and development (R&D) efforts.

DATES: Responses to the RFI must be received no later than 5:00 p.m. (ET) on May 14, 2018.

ADDRESSES: Interested parties are to submit comments electronically to *WaterPrizeRFI@ee.doe.gov* no later than 5:00 p.m. (ET) on May 14, 2018.

FOR FURTHER INFORMATION CONTACT: Questions may be addressed to: Andre de Fontaine, Office of Energy Efficiency & Renewable Energy, 1000 Independence Ave. SW, Washington, DC 20585. Telephone: (202)-586–6585. Email: *andre.defontaine@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background
II. Purpose
III. Request for Information Categories and Questions
IV. Guidance for Submitting Documents

I. Background

Water is a critical resource for human health, economic growth, and agricultural productivity. The United States has benefitted from access to generally low-cost water supplies, but new challenges are emerging that, if left unaddressed, could threaten this paradigm. For example, traditional freshwater sources are coming under stress from competing uses in a growing number of U.S. regions. A range of water quality problems are impacting human health and the environment, while municipal water and wastewater treatment systems face billions of dollars in unmet infrastructure investment needs, which will likely increase as population grows, and water and wastewater treatment requirements become more stringent.[1] This will put upward pressure on water and sewer rates, which have already experienced steady increases, on a national average, over the last several years.[2]

Energy is a key resource that modern water systems need to function properly. DOE has conducted substantial work to explore issues and advance solutions related to the energy-water nexus,[3] a term used to describe the interconnected nature of energy and water systems. This RFI contains a category of questions that specifically target the energy-water nexus, and energy is a theme that runs through several, if not all, of the other categories. With the exception of the energy-water nexus category, however, respondents should not limit themselves to energy issues in their responses. DOE is interested in collecting broad information that helps define the key water issues that could be addressed through challenges and prize competitions whether they concern energy explicitly, implicitly, or not at all. Responses collected through this RFI may be shared with other agencies to help them craft related prize competitions and challenges.

DOE recognizes that local, state, Federal, private, and non-profit actors are working to address water challenges using a range of mechanisms, including policy changes, early stage R&D, and grant funding. For example, DOE's Advanced Manufacturing Office (AMO) is developing an early stage R&D program to develop technologies that advance the cost-effective and energy efficient production of treated water from a range of conventional and non-conventional sources. AMO has conducted substantial stakeholder engagement to support this early stage R&D effort, including three workshops and a separate RFI issued in June of 2017. This RFI differs from the June request in that it seeks input from the public specifically on the water problems that could be best addressed through challenges and prize competitions. Additionally, it asks how those challenges and prize competitions could be structured to achieve maximum results.

In challenges and prize competitions, a given prize sponsor will define a problem and offer a reward for a solution.[4] Rewards can be monetary as well as non-monetary, such as national recognition, testing and validation of technologies, access to experts and specialists, and other organizational support. A key characteristic of challenges and prize competitions is they clearly define a problem without prescribing a particular solution path. Participation in prize competitions is generally open to a wide range of participants, with financial or other rewards provided at the end of the competition after a designated target or goal has been reached. This contrasts

[1] Arzbaecher, C., K. Parmenter, R. Ehrhard, and J. Murphy. 2013. *Electricity Use and Management in the Municipal Water Supply and Wastewater Industries.* Palo Alto, CA: Electric Power Research Institute and Water Research Foundation. *http://www.waterrf.org/PublicReportLibrary/4454.pdf.*

[2] DOE (Department of Energy). 2017. *Water and Wastewater Annual Price Escalation Rates for Selected Cities across the United States.* Washington, DC: DOE. *https://www.energy.gov/sites/prod/files/2017/10/f38/water_wastewater_escalation_rate_study.pdf.*

[3] See, DOE. 2014. The Water-Energy Nexus: Challenges and Opportunities. Washington, DC: DOE. *https://energy.gov/sites/prod/files/2014/07/f17/Water%20Energy%20Nexus%20Full%20Report%20July%202014.pdf.*

[4] For an overview of challenges and prize competitions, see Hendrix, M. 2014. *The Power of Prizes: Incentivizing Radical Innovation.* Washington, DC: U.S. Chamber of Commerce Foundation.

with traditional R&D funding in which participants are selected up front with funding provided at the beginning in order to pursue a target or goal. Prizes and competitions tend to work best when targeting solutions that are measurable and achievable within a relatively short time period—typically between two and ten years.[5] Challenges and prize competitions are not limited to technology and technical solutions; they can also promote business models, financing approaches, market design, information systems, policy design, and other innovative solutions. Among the benefits of challenges and prize competitions are they:

- Reach beyond the ''usual suspects'' to increase the number of solvers tackling a problem;
- Identify novel approaches;
- Bring out-of-discipline perspectives to bear;
- Establish an ambitious goal without having to predict which team or approach is most; likely to succeed; and
- Maximize return on investment by paying only for success.[6]

Since 2010, the Federal government has launched more than 740 challenges and prize competitions with millions of dollars in prize money and other incentives[7] (foundations, non-profit organizations, and private companies have launched many more). Examples of Federal prizes can be viewed on *Challenge.gov.* In recent years, DOE has run several prize competitions, including: The Catalyst Energy Innovation Prize (*https://energy.gov/eere/solar/sunshot-catalyst-energy-innovation-prize*), which offered cash prizes to teams and individuals that developed data, analysis, and software solutions that serve the energy efficiency and renewable energy market; and the Clean Tech University Prize (*https://energy.gov/eere/technology-to-market/cleantech-university-prize-cleantech*), which offered entrepreneurial support and financial rewards to teams of university students to support the commercialization of clean energy technologies; and the Wave Energy Prize (*https://wave energyprize.org/*), which was a multi-stage prototype competition incentivizing innovation in wave energy conversion technologies.

II. Purpose

The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on the key water problems that can be best addressed through challenges and prize competitions. DOE is specifically interested in information on how challenges and prize competitions can be used to engage a broad collection of stakeholders in removing barriers and enabling access to long-term, abundant supplies of low-cost, water. This is solely a request for information and not an announcement of a prize, challenge or competition, nor a Funding Opportunity Announcement (FOA).

III. Request for Information Categories and Questions

Category 1: Increasing Alternative Water Supplies

Traditional freshwater supplies are under stress in several parts of the country with withdrawals either already outpacing supplies or approaching that point. This will become a bigger problem over time as population grows and growth patterns shift. As a result, demand is expected to increase for non-traditional sources of water, which include sea water along coastal regions, brackish water available in much of the heartland, produced waters associated with oil and gas recovery, and beneficial reuse of wastewater treatment effluents. Technologies exist to treat these non-traditional sources of water, though often at high expense.

1. What are the key technical and non-technical challenges that, if overcome, would allow for a significant increase in the volume of available water produced from non-traditional sources? (This can be for a range of beneficial uses, including agricultural, industrial, or drinking purposes.) Please limit responses to those technical and non-technical challenges that could be best addressed through prize competitions.

2. Please elaborate on these challenges by providing: (1) A brief description of the challenge; (2) solutions that could be used to overcome the challenge; and (3) near-term goals that, if met, would signal success in, or significant progress toward, overcoming the challenge.

3. What types of prize incentives or other competitive structures could be employed to drive solutions to these challenges?

4. To what extent do insufficient information, data availability, and monitoring capabilities impede the utilization of non-traditional water sources? Please explain how.

Category 2: Reducing Costs To Treat Drinking Water and Wastewater

DOE's Pacific Northwest National Laboratory estimates that water prices increased each year, on average, by about 4.1% for drinking water and 3.3% for wastewater covering the time period 2008 through 2016. Price increases generally come about as water utilities pay back capital investments to modernize their infrastructure, add capacity, meet new water quality regulatory limits, or some combination of all three. Additional, significant capital expenses for these purposes are expected to persist into the future, leading to continued upward pressure on water prices.

1. What are the key technical and non-technical challenges that, if overcome, could reduce the cost to treat and deliver drinking water and wastewater to consumers, without negative impact on water quality? Please limit responses to those technical and non-technical challenges that could be best addressed through prize competitions.

2. Please elaborate on these challenges by: (1) Providing a brief description of the challenge; (2) solutions that could be used to overcome the challenge; and (3) near-term goals that, if met, would signal success in, or significant progress toward, overcoming the challenge.

3. What novel opportunities exist for wastewater treatment plant operators to create revenue streams from resources recovered from their influent? What barriers prevent operators from capturing these opportunities?

4. Are there water quality solutions that, if deployed, could protect water quality more cost-effectively than central treatment systems alone? What are the barriers to deploying these solutions?

5. What types of prize incentives or other competitive structures could be employed to drive solutions to these challenges?

6. To what extent do insufficient information, data availability, and monitoring capabilities impede addressing challenges in the water and wastewater treatment sectors? Please explain how.

Category 3: Opportunities To Use Water More Efficiently

Using water more efficiently can relieve pressure on freshwater sources, save energy, cut costs, and improve water quality. There are opportunities for the commercial and industrial

[5] National Research Council. 2007. *Innovation Inducement Prizes at the National Science Foundation.* Washington, DC: National Academy Press, 2007.

[6] OSTP (Office of Science and Technology Policy). 2016. *Implementation of Federal Prize Authority: Fiscal Year 2015 Progress Report, A Report from the Office of Science and Technology Policy In Response to the Requirements of the America COMPETES Reauthorization Act of 2010.* Washington, DC: OSTP.

[7] ''About,'' *https://www.challenge.gov/about/, retrieved February 22, 2018.*

sectors to use water more efficiently, though DOE recognizes that approaches to do so will vary by sector—commercial, residential, industrial, oil and gas, electric power, or agricultural. Respondents should note which sector(s) they are referring to in any sector specific responses.

1. What are the key technical and non-technical challenges that, if overcome, could lead to significant improvements in water efficiency? Please limit responses to those technical and non-technical challenges that could be best addressed through prize competitions.

2. Please elaborate on these challenges by: (1) Providing a brief description of the challenge; (2) solutions that could be used to overcome the challenge; and (3) near-term goals that, if met, would signal success in, or significant progress toward, overcoming the challenge.

3. To what extent do insufficient information, data availability, and monitoring capabilities impede water conservation efforts? Please explain how.

4. Do emerging water utility business models with revenue structures that encourage conservation hold promise for reducing water consumption? What are some of these business models?

5. Given a ten-year timeframe, what are ambitious but achievable water efficiency targets for certain industrial and/or power sector applications? What are those applications? What are the technical and economic barriers to improving water efficiency within those applications?

6. For any of the questions raised above, what types of prize incentives or other competitive structures could be deployed to drive the development of solutions to these issues?

Category 4: Market-Based Solutions That Incentivize Innovation and Conservation

Water utilities across the United States employ a variety of different rate structures. While water can be scarce or abundant in different parts of the country, water prices often do not reflect these supply and demand conditions. The manner in which water rights are allocated can also have an impact on how water is used. Additionally, end-use customers may not always be aware of the full cost of their water consumption, including the energy needed to pump and heat the water within their homes, buildings, and plants.

1. Do water markets and water rates currently relay appropriate price signals based on supply and demand? If the answer is no, please describe the mechanisms that distort the price signal.

2. Are there market failures or government failures in water markets that, if addressed, could result in water market pricing that more closely reflects supply and demand? Please describe those failures. What are the barriers to achieving more efficient water markets?

3. What challenges related to water pricing or other market design could be best addressed through the use of prizes or competitions?

4. What types of prize incentives or competitive structures could be deployed to drive meaningful solutions to these problems on a near-term basis?

Category 5: The Energy-Water Nexus

The energy-water nexus is a term used to describe the interconnected nature of energy and water systems. For example, energy is required to extract, convey, and deliver water of appropriate quality for diverse human uses and then again to treat wastewater prior to return to the environment. Conversely, water is used in multiple phases of energy production and electricity generation, from hydraulic fracturing and irrigating crops for biofuels to providing cooling water for thermoelectric power plants. Vulnerabilities in one system can affect the other. DOE recognizes that the energy-water nexus theme cuts across the other categories of questions listed above. This category is intended to solicit input on water challenges solely or predominantly impacted by energy issues and energy challenges solely or predominantly impacted by water issues. For questions 1–4, please limit responses to those technical and non-technical challenges that could be best addressed through prize competitions.

1. What are the most critical energy issues that, if solved, could have a measurable and significant near-term impact on the availability of low-cost water supplies?

2. What are the most critical water issues that, if solved, could have a measurable and significant near term impact on low-cost energy production?

3. What opportunities are there to pursue measurable value through integrated energy and water systems?

4. What opportunities are there to pursue measurable value through innovation in water, electricity, and other market design?

5. Please elaborate on the challenges identified in questions 1 through 4 by: (1) Providing a brief description of the challenge; (2) solutions that could be used to overcome the challenge; and (3) near-term goals that, if met, would signal success in, or significant progress toward, overcoming the challenge.

6. What types of prize incentives or other competitive structures could be employed to drive solutions to these challenges?

Category 6: Past, Existing, and Forthcoming Water-Related Challenges and Prize Competitions

DOE would like to be aware of any past, existing, or forthcoming water-related challenges and prize competitions to: Learn from others' experiences; potentially partner with synergistic initiatives; and/or avoid duplication of effort.

1. Please list any past, existing, or forthcoming water-related challenges and prize competitions. Include brief descriptions of the initiatives and web links if available.

2. What have been some key characteristics of prior successful water or energy-water nexus prize competitions and challenges? Please include examples of incentives that have been effective in prize competitions and challenges.

3. Are there any considerations that DOE should keep in mind when formulating new challenges or prize competitions focused on key water issues?

Category 7: Other Water Challenges Not Covered Elsewhere in This RFI

DOE is interested in understanding the broad range of critical water problems that challenges and prize competitions are best suited to tackle. The preceding categories may not be inclusive of all key water challenges facing the country and world. This category of questions is designed to gather input on any other water challenges not covered elsewhere in the RFI.

1. Please include additional challenges not covered previously. What are the technical and non-technical barriers that need to be overcome to solve these problems?

2. How could a challenge or prize competition be structured to address these problems?

IV. Request for Information Response Guidelines

DOE invites all interested parties to submit responses electronically to *WaterPrizeRFI@ee.doe.gov* no later than 5:00 p.m. (ET) on May 14, 2018. Responses must be provided as attachments to an email. It is recommended that attachments with file sizes exceeding 25MB be compressed (*i.e.,* zipped) to ensure message delivery. Responses must be provided as a Microsoft Word (.docx) attachment to the email, and no more than 5 pages in

length per category of questions, 12 point font, 1 inch margins. Only electronic responses will be accepted. Please identify your answers by responding to a specific question or topic if applicable. Respondents may answer as many or as few questions as they wish. Respondents are requested to provide the following information at the start of their response to this RFI:

- Company/institution name;
- Company/institution contact;
- Contact's address, phone number, and email address.

Confidential Business Information

Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person that would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

Issued in Washington, DC, on March 12, 2018.

Daniel Simmons,

Principal Deputy Assistant Secretary, Office of Energy Efficiency & Renewable Energy.

[FR Doc. 2018–05472 Filed 3–16–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–95–000]

Notice of Application; ETG Acquisition Corp.

Take notice that on February 28, 2018, ETG Acquisition Corp (ETG), 1 South Jersey Plaza, Folsom, NJ 08037, filed in Docket No. CP18–95–000 an application an application pursuant to section 7(f) of the Natural Gas Act (NGA) requesting a service area determination within which ETG may, without further Commission authorization, enlarge or expand its facilities. ETG further requests that the Commission determine that ETG is a local distribution company (LDC) for purposes of Section 311 of the Natural Gas Policy Act (NGPA) and grant a waiver of all reporting and accounting requirements, rules, and regulations that are normally applicable to natural gas companies under the NGA and NGPA, all as more fully described in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, in Docket No. CP18–95–000, ETG requests a NGA Section 7(f) service area determination for its anticipated distribution operations in western Warren County and northern Hunterdon County, New Jersey and for an area immediately surrounding the Penn-Jersey pipeline in Northampton County, Pennsylvania.

Any questions regarding this application should be directed to Melissa Orsen, South Jersey Industries, Inc., 1 South Jersey Plaza, Folsom, New Jersey 08037 or call (609) 567–4000, or email: *morsen@sjindustries.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed

documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on April 2, 2018.

Dated: March 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05428 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–68–000.
Applicants: Solano 3 Wind LLC.
Description: Application of Solano 3 Wind LLC for Authorization to Transfer Jurisdictional Facilities Under Section 203 of the Federal Power Act.
Filed Date: 3/13/18.
Accession Number: 20180313–5120.
Comments Due: 5 p.m. ET 4/3/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–52–000.
Applicants: CAFCo Idaho Refuse Management LLC.
Description: Self-Certification of EG or FC of CAFCo Idaho Refuse Management LLC.
Filed Date: 3/13/18.
Accession Number: 20180313–5161.
Comments Due: 5 p.m. ET 4/3/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–445–001.
Applicants: Entergy Services, Inc.
Description: Tariff Amendment: Entergy Services, Inc., Amended Service Agreements to be effective 2/12/2018.
Filed Date: 3/12/18.
Accession Number: 20180312–5193.
Comments Due: 5 p.m. ET 4/2/18.

Docket Numbers: ER18–823–000.
Applicants: ColGreen North Shore, LLC.
Description: Supplement to February 7, 2018 ColGreen North Shore, LLC tariff filing (revised Asset Appendix).
Filed Date: 3/12/18.
Accession Number: 20180312–5219.
Comments Due: 5 p.m. ET 4/2/18.

Docket Numbers: ER18–994–000.
Applicants: Targray Americas Inc.
Description: Tariff Cancellation: Cancellation notice 2018 to be effective 3/31/2018.
Filed Date: 3/12/18.
Accession Number: 20180312–5177.
Comments Due: 5 p.m. ET 4/2/18.

Docket Numbers: ER18–995–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Attachment AE Revisions to Clarify Registration of Load to be effective 5/11/2018.
Filed Date: 3/12/18.
Accession Number: 20180312–5187.
Comments Due: 5 p.m. ET 4/2/18.

Docket Numbers: ER18–996–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: Affected PTO Upgrade Facilities Agreement Ares Nevada, LLC to be effective 3/13/2018.
Filed Date: 3/13/18.
Accession Number: 20180313–5000.
Comments Due: 5 p.m. ET 4/3/18.

Docket Numbers: ER18–998–000.
Applicants: Uniper Global Commodities North America LLC.
Description: § 205(d) Rate Filing: Amendment to Market Based Rate to be effective 5/12/2018.
Filed Date: 3/13/18.
Accession Number: 20180313–5068.
Comments Due: 5 p.m. ET 4/3/18.

Docket Numbers: ER18–1001–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA, SA No. 4398; Queue No. X2–027 to be effective 2/13/2018.
Filed Date: 3/13/18.
Accession Number: 20180313–5110.
Comments Due: 5 p.m. ET 4/3/18.

Docket Numbers: ER18–1005–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO–NTEC Brandy Branch Tap to Darco DPA to be effective 2/21/2018.
Filed Date: 3/13/18.
Accession Number: 20180313–5153.
Comments Due: 5 p.m. ET 4/3/18.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD18–2–000.
Applicants: North American Electric Reliability Corporation, Western Electricity Coordinating Council.
Description: Joint Petition of the North American Electric Reliability Corporation and Western Electricity Coordinating Council for Approval of Proposed Regional Reliability Standard BAL–004–WECC–3.
Filed Date: 3/8/18.
Accession Number: 20180308–5197.
Comments Due: 5 p.m. ET 4/12/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05489 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN13–15–000]

BP America Inc., BP Corporation North America Inc., BP America Production Company, and BP Energy Company; Updated Notice of Designation of Commission Staff as Non-Decisional

With respect to orders issued by the Commission in the above-captioned docket, with the exceptions noted below, the staff of the Office of Enforcement are designated as non-decisional in deliberations by the Commission in this docket. Accordingly, pursuant to 18 CFR 385.2202 (2017), they will not serve as advisors to the Commission or take part in the Commission's review of any offer

of settlement. Likewise, as non-decisional staff, pursuant to 18 CFR 385.2201 (2017), they are prohibited from communicating with advisory staff concerning any deliberations in this docket.

Exceptions to this designation as non-decisional are:

Timothy Helwick
Eric Ciccoretti
Shawn Bennett
Sebastian Krynski
Jeffrey Phillips
Grace Kwon
Mark Nagel

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05496 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–178–000]

Notice of Schedule for Environmental Review of the Alaska Gasline Development Corporation Alaska LNG Project

On April 17, 2017, the Alaska Gasline Development Corporation (AGDC) filed an application in Docket No. CP17–178–000 requesting authorization pursuant to section 3(a) of the Natural Gas Act (NGA) to construct and operate liquefied natural gas (LNG) export facilities. The proposed project is known as the Alaska LNG Project (Project) and would commercialize natural gas resources on the North Slope during the economic life of the Prudhoe Bay Unit field and provide at least five interconnection points along the pipeline to allow for in-state gas deliveries.

On May 1, 2017, the Federal Energy Regulatory Commission (FERC or Commission) issued its Notice of Application for the Project. Among other things, that notice alerted other agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on the request for a federal authorization within 90 days of the date of issuance of the Commission staff's final Environmental Impact Statement (EIS) for the Alaska LNG Project. This instant notice identifies the FERC staff's planned schedule for completion of the final EIS for the Project, which is based on an issuance of the draft EIS in March 2019.

Schedule for Environmental Review

Issuance of Notice of Availability of the final EIS—December 9, 2019
90-Day Federal Authorization Decision Deadline—March 8, 2020

If a schedule change becomes necessary for the final EIS, an additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

AGDC is seeking authorization to construct, own, and operate a new gas treatment plant near Prudhoe Bay; a 1.0-mile-long, 60-inch-diameter Prudhoe Bay Unit Gas Transmission Line; a 62.5-mile-long, 32-inch-diameter Point Thomson Unit Gas Transmission Line; a 806.6-mile-long, 42-inch-diameter natural gas pipeline from the gas treatment plant to the LNG terminal in Nikiski; an LNG terminal with a 20 million ton per annum liquefaction capacity; associated aboveground facilities; and non-jurisdictional facilities in Alaska. The Project would have an annual average inlet design capacity of up to 3.7 billion standard cubic feet per day and a 3.9 billion standard cubic feet per day peak capacity of natural gas.

Background

On September 12, 2014, the Commission staff granted AGDC's request to use the FERC's Pre-filing environmental review process and assigned the Alaska LNG Project Docket No. PF14–21–000. On March 4, 2015, the Commission issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Planned Alaska LNG Project and Request for Comments on Environmental Issues* (NOI) during the pre-filing review. In October 2015, FERC issued two supplemental Notices regarding public scoping meetings for the Alaska LNG Project. On July 27, 2016, FERC also issued a *Supplemental Notice Requesting Comments on the Denali National Park and Preserve Alternative for the Planned Alaska LNG Project.*

The NOI and supplemental notices were sent to federal, state, and local government agencies; elected officials; affected landowners; environmental and public interest groups; Native American tribes and regional organizations; commentors and other interested parties; and local libraries and newspapers. Major issues raised during scoping include impacts on traditional Alaska Native culture, particularly subsistence; health impacts on local communities; impacts on wetlands, including through placement of permanent gravel fill; visual impacts from key observation points, including within the Denali National Park and Preserve; impacts of dredging and identification of disposal methods; wildlife impacts, specifically on the caribou population and its migration routes, the endangered Cook Inlet beluga whale population, and Cook Inlet fish habitat; and transportation impacts.

The U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration; U.S. Environmental Protection Agency; U.S. Army Corps of Engineers; U.S. Coast Guard; Bureau of Land Management; U.S. Fish and Wildlife Service; National Marine Fisheries Service; National Park Service; and U.S. Department of Energy are cooperating agencies in the preparation of the EIS.

Additional Information

In order to receive notification of the issuance of the EIS and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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.*

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*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP17–178), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: March 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05427 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14327–006]

Pershing County Water Conservation District, Nevada; Notice of Application Accepted For Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* License Amendment.

b. *Project No.:* 14327–006.

c. *Date Filed:* August 18, 2017; supplemented on October 12, 2017 and December 18, 2017.

d. *Licensee:* Pershing County Water Conservation District, Nevada.

e. *Name of Project:* Humboldt River Hydropower Project.

f. *Location:* The project is located on the Humboldt River in Pershing County, Nevada.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Licensee Contact:* Mr. Bennie Hodges, Manager, Pershing County Water Conservation District, P.O. Box 218, Lovelock, NV 89419; telephone: (775) 273–2293; Email: *pcwcd@irrigation.lovelock.nv.us.*

i. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

j. Deadline for filing comments, motions to intervene and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include the docket number P–14327–006.

k. *Description of Proceeding:* On August 18, 2017, and supplemented on October 12, 2017 and December 18, 2017, Pershing County Water Conservation District, Nevada (District) filed a request to amend its license to include the Rye Patch Dam and Reservoir as project facilities within the project boundary. The Rye Patch Dam and Reservoir was formerly owned and operated by the U.S. Bureau of Reclamation. The dam and reservoir were transferred to the District on August 18, 2016 pursuant to the Humboldt Project Conveyance Act, Title VIII of Public Law 107–282. With the transfer completed, Article 205 of the license requires the District to file an application to amend the license to include all transferred land and project facilities within the licensed project boundary.

l. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street, NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–14327–006) excluding the last three digits in the docket number field to access the notice. 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, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .212 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.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (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, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the license amendment. 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. If an intervener 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. 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.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05497 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–50–000.
Applicants: Victoria City Power LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Victoria City Power LLC.
Filed Date: 3/12/18.
Accession Number: 20180312–5139.
Comments Due: 5 p.m. ET 4/2/18.

Docket Numbers: EG18–51–000.
Applicants: Victoria Port Power LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Victoria Port Power LLC.
Filed Date: 3/12/18.
Accession Number: 20180312–5142.
Comments Due: 5 p.m. ET 4/2/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1338–002.
Applicants: Southern Indiana Gas and Electric Company, Inc.
Description: Supplement to December 28, 2017 Triennial Market Based Rates Update in Central Region of Southern Indiana Gas and Electric Company, Inc.
Filed Date: 3/9/18.
Accession Number: 20180309–5177.
Comments Due: 5 p.m. ET 3/30/18.

Docket Numbers: ER18–374–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Deficiency Response in ER18–374—Attachment Z2 Tariff Revisions to be effective 2/1/2018.
Filed Date: 3/5/18.
Accession Number: 20180302–5000.
Comments Due: 5 p.m. ET 3/26/18.

Docket Numbers: ER18–974–000.
Applicants: NTE Carolinas, LLC.
Description: Supplement to March 7, 2018 NTE Carolinas, LLC tariff (Attachment F).
Filed Date: 3/8/18.
Accession Number: 20180308–5090.
Comments Due: 5 p.m. ET 3/29/18.

Docket Numbers: ER18–987–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Cancellation: Termination of LGIA with Regents of the UC (SA 344) to be effective 2/21/2018.
Filed Date: 3/9/18.
Accession Number: 20180309–5167.
Comments Due: 5 p.m. ET 3/30/18.

Docket Numbers: ER18–988–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Revisions to OATT and RAA RE: Incremental Auction Process to be effective 5/8/2018.
Filed Date: 3/9/18.
Accession Number: 20180309–5171.
Comments Due: 5 p.m. ET 3/30/18.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC18–3–000.
Applicants: I Squared Capital.
Description: FC of I Squared Capital Notification of Self-Certification of Foreign Utility Company Status.
Filed Date: 3/9/18.
Accession Number: 20180309–5179.
Comments Due: 5 p.m. ET 3/30/18.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RD18–1–000.
Applicants: North American Electric Reliability Corporation, Western Electricity Coordinating Council.
Description: Joint Petition of the North American Electric Reliability Corporation and Western Electricity Coordinating Council for Approval of Retirement of Regional Reliability Standard VAR–002–WECC–2.
Filed Date: 3/7/18.
Accession Number: 20180307–5161.
Comments Due: 5 p.m. ET 4/11/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05488 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–132–000]

Missouri Joint Municipal Electric Utility Commission; Notice of Request for Partial Waiver

Take notice that on March 12, 2018, pursuant to section 292.402 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,[1] the Missouri Joint Municipal Electric Utility Commission (MJMEUC) on behalf of itself and its authorizing member municipal cities (Authorizing Members), filed a request for partial waiver of certain obligations imposed on MJMEUC and its Authorizing Members through the Commission's regulations[2] implementing section 210 of the Public Utility Regulatory Policies Act of 1978, all as more fully explained in the request.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on April 2, 2018.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05495 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR14–55–000.
Applicants: Arkansas Oklahoma Gas Corporation.
Description: Annual Report for 2018 of Arkansas Oklahoma Gas Corporation.
Filed Date: 2/28/18.
Accession Number: 201802285275.
Comments/Protests Due: 5 p.m. ET 3/21/18.

[1] 18 CFR 292.402.

[2] 18 CFR 292.303(a) and 292.303(b).

Docket Numbers: RP16–864–000.

Applicants: Columbia Gas Transmission, LLC.

Description: Report Filing: Modernization II Settlement Payment Report.

Filed Date: 3/8/18.

Accession Number: 20180308–5049.

Comments Due: 5 p.m. ET 3/20/18.

Docket Numbers: RP17–977–000.

Applicants: Kinetica Energy Express, LLC.

Description: Motion Filing: Motion to Place Suspended Tariff Sheets into Effect to be effective 3/12/2018.

Filed Date: 3/9/18.

Accession Number: 20180309–5036.

Comments Due: 5 p.m. ET 3/21/18.

Docket Numbers: RP18–554–000.

Applicants: KO Transmission Company.

Description: § 4(d) Rate Filing: 2018 Transportation Retainage Adjustment Filing to be effective 4/1/2018.

Filed Date: 3/9/18.

Accession Number: 20180309–5037.

Comments Due: 5 p.m. ET 3/21/18.

Docket Numbers: RP18–555–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Non-Conforming Agreement Filing (Concord Mar 18) to be effective 3/1/2018.

Filed Date: 3/9/18.

Accession Number: 20180309–5066.

Comments Due: 5 p.m. ET 3/21/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05490 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–556–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Rate Case Settlement—2018 to be effective 9/1/2018.

Filed Date: 3/12/18.

Accession Number: 20180312–5110.

Comments Due: 5 p.m. ET 3/26/18.

Docket Numbers: RP18–557–000.

Applicants: Panhandle Eastern Pipe Line Company, LP.

Description: Compliance filing Flow Through of Penalty Revenues Report filed on 3–12–18.

Filed Date: 3/12/18.

Accession Number: 20180312–5134.

Comments Due: 5 p.m. ET 3/26/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05491 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2407–164]

Alabama Power Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-capacity amendment of license and temporary variance of reservoir elevation levels.

b. *Project No.:* 2407–164.

c. *Date Filed:* February 8, 2018.

d. *Applicants:* Alabama Power Company.

e. *Name of Project:* Yates and Thurlow Hydroelectric Project.

f. *Location:* Tallapoosa River in Tallapoosa and Elmore counties, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. James F. Crew, Hydro Services Manager, Alabama Power Company, 600 North 18th Street, 16N–8180, Birmingham, AL 35203, (205) 257–4265, *jfcrew@southernco.com.*

i. *FERC Contact:* Mr. M. Joseph Fayyad, (202) 502–8759, *Mo.Fayyad@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2407–164.

The Commission's Rules of Practice and Procedure 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. *Description of Request:* The Alabama Power Company (licensee) requests Commission approval for an amendment to its current license to replace the existing automatic spillway crest gates with Obermeyer gates at the project's Thurlow Dam and install a trash boom. The licensee states the proposed work is to eliminate safety hazards to personnel and more effectively manage reservoir levels and spill during flood events.

In order to install the Obermeyer gates and trash boom, the licensee also requests a temporary variance from the normal reservoir elevations for the Thurlow impoundment as required by Article 402 of the license. Article 402 requires, in part, the licensee to operate the project so the maximum drawdown at the Thurlow impoundment does not exceed 1 foot below the normal pool elevation of 288.7 feet mean sea level (msl). The licensee proposes to temporarily draw down the Thurlow impoundment to an approximate elevation of 278.7 feet msl for a five-month period from June 1, 2018 through October 31, 2018, and from June 1, 2019 through October 31, 2019.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .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, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE,'' (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, motions to intervene, or protests 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. If an intervener 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. 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.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05492 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–45–000]

Dominion Energy Transmission, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Sweden Valley Project, and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the proposed Sweden Valley Project (Project). The Project involves the construction and operation of facilities by Dominion Energy Transmission, Inc. (Dominion) in Licking and Tuscarawas counties, Ohio and in Armstrong, Clinton and Greene counties in Pennsylvania. The Commission will use this EA in its decision-making process to determine whether the Project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before April 13, 2018.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings

where compensation would be determined in accordance with state law.

Dominion provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (*www.ferc.gov*).

Public Participation

For your convenience, there are three (3) methods you can use to submit your comments to the Commission. The Commission will provide equal consideration to all comments received. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18–45–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

The Project is designed to provide 120,000 dekatherms per day of firm transportation service from an existing point of interconnection located on Dominion's Line TL–489 in Clinton County, Pennsylvania to a new point of interconnection between Dominion and Tennessee Gas Pipeline in Tuscarawas County, Ohio. Dominion proposes to operate the following Facilities after construction or modifications:

- About 1.7 miles of 20-inch-diameter pipeline lateral south of Dominion's existing Gilmore Metering and Regulation (M&R) station in Tuscarawas County, Ohio;
- approximately 3.2 miles of 24-inch-diameter pipeline looping north of Dominion's existing Crayne Compressor Station in Greene County, Pennsylvania;
- re-wheel (optimize) the compressors on three existing centrifugal compression sets at Dominion's existing Newark Compressor Station in Licking County, Ohio;
- a new M&R site with associated equipment to measure gas and regulate pressure at the gas delivery point in Tuscarawas County, Ohio;
- regulation equipment at the South Bend Compressor Station to regulate pressure between existing Dominion pipelines in Armstrong County, Pennsylvania;
- M&R equipment to measure gas and regulate pressure at a new interconnect in Clinton County, Pennsylvania;
- a pig launcher/receiver south of the existing Gilmore M&R station and a new pig launcher/receiver at the new Port Washington M&R station in Tuscarawas County, Ohio; and
- new mainline valves at the northern terminus of the proposed TL–654 PA loop in Greene County, Pennsylvania.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Constructing the proposed facilities would require the use of approximately 113.9 acres of land of which 28.3 acres are in Ohio and 85.6 acres are in Pennsylvania. Following construction, Dominion would maintain about 45.4 acres for permanent operation of the Project's facilities, of which 12.0 acres would be in Ohio and 33.4 acres would be in Pennsylvania. In general, the pipeline facilities would require a permanent right-of-way width of 50 feet for each pipeline. An additional 25 feet of temporary workspace would be used during construction along the entire pipeline construction corridor and an additional temporary workspace of 25 feet would be used in areas where topsoil segregation is required or additional space is necessary to facilitate construction.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

agency status should follow the instructions for filing comments provided under the Public Participation section of this notice. Currently no agencies has expressed their intention to participate as a cooperating agency in the preparation of the EA to satisfy their NEPA responsibilities related to the Project.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's website. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP18–45). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05494 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14867–000]

Scott's Mill Hydro, LLC; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14867–000.

c. *Date Filed:* January 11, 2018.

d. *Submitted By:* Scott's Mill Hydro, LLC.

e. *Name of Project:* Scott's Mill Hydroelectric Project.

f. *Location:* On the James River, in Amherst and Bedford Counties, Virginia. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. Potential *Applicant Contact:* Mark Fendig, Scott's Mill Hydro, LLC., P.O. Box 13, Coleman Falls, VA 24536; (540) 320–6762; email—*mfendig@aisva.net.*

i. *FERC Contact:* Jody Callihan at (202) 502–8278; or email at *jody.callihan@ferc.gov.*

j. Scott's Mill Hydro, LLC filed its request to use the Traditional Licensing Process on January 11, 2018. Scott's Mill Hydro, LLC provided public notice of its request on January 27, 2018. In a letter dated March 13, 2018, the Director of the Division of Hydropower Licensing approved Scott's Mill Hydro, LLC's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Virginia State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act and the implementing regulations at 36 CFR 800.2.

l. With this notice, we are designating Scott's Mill Hydro, LLC as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery

Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Scott's Mill Hydro, LLC filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). Copies are also available for inspection and reproduction at 912 Wilson Highway, Mouth-of-Wilson, VA 24363.

o. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: March 13, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05493 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–100–000]

Notice of Request Under Blanket Authorization; Columbia Gas Transmission, LLC

Take notice that on March 1, 2018, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Houston, Texas 77002–2700, filed in Docket No. CP18–100–000 a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), as amended, for authorization to perform certain installations and activities to enable the in-line inspection of a portion of its 24-inch-diameter Line 1983. The proposed activities include installing two launcher/receivers, removal of two existing drips, and replacement of four mainline valves in Gilmer, Doddridge, and Wetzel Counties, West Virginia. Columbia estimates the cost of the proposed project to be approximately $15.6 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Linda Farquhar, Manager, Project Determinations & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, by telephone at (832) 320–5685, by fax at (832) 320–6685, or by email at *linda_farquhar@transcanada.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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 7 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: March 12, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–05426 Filed 3–16–18; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Heartland Financial USA, Inc., Dubuque, Iowa;* to merge with First Bank Lubbock Bancshares, Inc. and thereby indirectly acquire First Bank & Trust Company, both of Lubbock, Texas.

2. *Minier Financial, Inc. Employee Stock Ownership Plan, Minier, Illinois;* to acquire an additional 8.1 percent, for a total of 51 percent, of the voting shares of Minier Financial, Inc., Minier, Illinois, and thereby indirectly acquire ownership of First Farmers State Bank, Minier, Illinois.

Board of Governors of the Federal Reserve System, March 14, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–05501 Filed 3–16–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 13, 2018.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *ATBancorp, Dubuque, Iowa;* to acquire approximately 5.6 percent of the voting stock of Heritage Commerce Corp., and thereby indirectly acquire Heritage Bank of Commerce, both of San Jose, California.

Board of Governors of the Federal Reserve System, March 13, 2018.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2018–05437 Filed 3–16–18; 8:45 am]

BILLING CODE P

FINANCIAL STABILITY OVERSIGHT COUNCIL

Hearing Procedures; Notice of Availability

AGENCY: Financial Stability Oversight Council.

ACTION: Notice of availability.

SUMMARY: The Financial Stability Oversight Council (Council) has adopted amendments to its procedures for hearings conducted by the Council under Title I and Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[1] The amendments were adopted primarily in order to add hearings conducted under section 117 of the Dodd-Frank Act to the scope of the procedures.

DATES: The amendments to the hearing procedures were effective on March 13, 2018. Written comments on the amendments must be received on or before April 18, 2018.

FOR FURTHER INFORMATION CONTACT: Eric A. Froman, Executive Director, Financial Stability Oversight Council, U.S. Treasury Department, (202) 622–1942; Stephen T. Milligan, Attorney-Advisor, U.S. Treasury Department, (202) 622–4051.

ADDRESSES: Interested persons are invited to submit comments on the procedures according to the instructions below. All submissions must refer to the document title.

Electronic submission of comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt, and enables the Council to make them available to the public. Comments submitted electronically through the *http://www.regulations.gov* website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Mail. Send comments to Financial Stability Oversight Council, 1500 Pennsylvania Avenue NW, Washington, DC 20220.

Public inspection of comments. All properly submitted comments will be available for inspection and downloading at *http://www.regulations.gov.*

Additional instructions. In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2012, the Council approved hearing procedures relating to the conduct of hearings before the Council in connection with proposed determinations regarding nonbank financial companies and financial market utilities and related emergency waivers or modifications under sections 113 and 804 of the Dodd-Frank Act.[2] At the time, the Council sought public comment on all aspects of the hearing procedures, in order to further consider whether any provision should be modified. On April 4, 2013, the Council approved certain amendments to the hearing procedures to expand their scope to include hearings for financial institutions engaged in payment, clearing, or settlement activities that are the subject of a proposed designation by the Council under Title VIII of the Dodd-Frank Act.[3]

[1] Public Law 111–203 (Jul. 21, 2010).

[2] 12 U.S.C. 5323, 5463; 77 FR 31,855 (May 30, 2012).

[3] 78 FR 22,546 (April 16, 2013).

Amendments to Hearing Procedures

On March 13, 2018, the Council adopted amendments to the hearing procedures, primarily to add hearings conducted under section 117 of the Dodd-Frank Act to the scope of the procedures. The Council has posted the amended hearing procedures on its website at *https://www.treasury.gov/initiatives/fsoc/designations/Pages/Hearing-Procedures.aspx* and on *http://www.regulations.gov.* Although the amendments were effective when adopted, the Council is requesting comments on the procedures and may make further amendments to reflect any comments received.

Section 117 of the Dodd-Frank Act applies to an entity that was a bank holding company having total consolidated assets equal to or greater than $50 billion as of January 1, 2010, that received financial assistance under or participated in the Capital Purchase Plan established under the Troubled Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008, and to any successor entity (as defined by the Board of Governors of the Federal Reserve System (Board of Governors) in consultation with the Council) to such a bank holding company.[4] Section 117(b) of the Dodd-Frank Act provides that such an entity shall, if it ceases to be a bank holding company, be treated as a nonbank financial company subject to supervision by the Board of Governors as if the Council had made a determination under section 113 of the Dodd-Frank Act with respect to that entity.[5] Section 117(c) of the Dodd-Frank Act provides that an entity may request, in writing, an opportunity for a written or oral hearing before the Council to appeal its treatment as a nonbank financial company supervised by the Board of Governors.[6]

The Council amended the hearing procedures to add hearings conducted under section 117 of the Dodd-Frank Act to the scope of the procedures. Specifically, the Council amended the definition of ''petitioner'' in section 2 of the hearing procedures to add a reference to entities that are appealing their treatment pursuant to section 117 of the Dodd-Frank Act. Section 3(b) of the hearing procedures was amended to provide that a petitioner that is appealing its treatment pursuant to section 117 may request a hearing by submitting a written request to the Chairperson of the Council. Section 5(b)(3)(ii) of the hearing procedures was amended to provide that any petitioner, including a petitioner appealing its treatment pursuant to section 117 of the Dodd-Frank Act, may submit additional written materials to supplement any materials presented during an oral hearing not later than 7 days after the date of that hearing. A new paragraph (4) was added to section 5(b) to provide that, in cases where an oral hearing is held under section 113 or 117 of the Dodd-Frank Act, the date of the hearing shall be deemed to be the date on which the Council has received any supplemental materials that are timely submitted after the oral hearing. The definition of ''hearing date'' in section 2 was accordingly deleted as unnecessary.

To reflect the addition of hearings conducted under section 117 of the Dodd-Frank Act to the scope of the procedures, conforming changes were made to sections 1(a) and (b) (regarding the authority for and scope of the procedures); section 4(b) (regarding the submission of written materials); section 7 (regarding the denial and dismissal of a hearing); and section 8(a) (providing that the substantive standards for Council review of petitions is not affected by the hearing procedures).

Finally, the Council made certain non-substantive or technical changes to update the hearing procedures. Specifically, the definitions of ''hearing'' and ''oral hearing'' in section 2 were deleted as unnecessary. Section 5(c)(2) was amended to clarify that, even when the Council determines to conduct an oral hearing through representatives, each member of the Council is entitled to participate in the oral hearing in lieu of appointing a representative. The former section 5(d)(1), providing that if the Council grants a request for an oral hearing, the hearing shall be conducted through both the submission of written materials and an oral hearing, was omitted from the hearing procedures as redundant with other provisions in the procedures. The former section 5(d)(2), providing for the conduct of an oral hearing, was redesignated as section 5(c)(3) and amended to add, consistent with the Council's past practice, that the Chairperson of the Council, his representative, or the Hearing Clerk (as defined in the procedures) will preside at an oral hearing. Section 5(e), regarding transcripts of oral hearings, was redesignated as section 5(d) and amended to remove the reference to the petitioner's right to ''inspect'' a transcript or other recording of the oral argument, leaving the reference to the petitioner's right to receive a copy of the transcript or other recording and to submit corrections.

Dated: March 13, 2018.

Eric A. Froman,

Executive Director, Financial Stability Oversight Council.

[FR Doc. 2018–05548 Filed 3–16–18; 8:45 am]

BILLING CODE 4810–25–P–P

[4] 12 U.S.C. 5327.

[5] 12 U.S.C. 5327(b).

[6] 12 U.S.C. 5327(c).

GENERAL SERVICES ADMINISTRATION

[Notice–PBS–2018–03; Docket No. 2018–0002; Sequence No. 3]

Notice of Availability of a Final Environmental Assessment for the Otay Mesa USDA Plant Inspection Station

AGENCY: Public Buildings Service (PBS), Pacific Rim Division, General Services Administration (GSA).

ACTION: Notice of availability.

SUMMARY: We are advising the public that GSA has prepared a Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the construction of the proposed U.S. Department of Agriculture (USDA) Animal and Plant Health Inspection Service (APHIS) Plant Inspection Station (PIS), adjacent to the existing Otay Mesa Land Port of Entry (LPOE) in Otay Mesa, San Diego County, California. Based on its finding of no significant impacts, GSA has determined that an Environmental Impact Statement need not be prepared.

DATES: A public meeting to solicit comments and provide information about the Final EA and FONSI will be held on Thursday, March 29, 2018, from 4:00 p.m. to 6:00 p.m., Pacific Time (PT).

ADDRESSES: The meeting will be held at the Holiday Inn Express & Suites Conference Room, located at 2296 Niels Bohr Court, San Diego, California 92154.

Copies of the EA and FONSI are also available for public inspection at the Otay Mesa-Nestor Branch Library, located at 3003 Coronado Avenue, San Diego, CA 92154. The Final EA and FONSI can also be viewed on the GSA website at *http://www.gsa.gov/nepa.* Click on *NEPA Library,* then *Public Documents.* In addition, copies may be obtained by calling or writing to the individual listed below.

FOR FURTHER INFORMATION CONTACT: Please contact Osmahn Kadri, NEPA Project Manager, Pacific Rim Region, GSA, 50 United Nations Plaza, Room 3345, Mailbox 9, San Francisco, CA 94102, by phone at 415–522–3617, or via email to *osmahn.kadri@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Details of the Preferred Alternative were described in the NEPA document entitled *Final Environmental Assessment for the USDA Animal and Plant Health Inspection Service Plant Inspection Station at the Otay Mesa Land Port of Entry, San Diego, California* (JMT, 2018). The Draft EA was published and circulated among responsible government agencies and the public for a period of no less than 30 days, ending on December 29, 2017. A public meeting on the Draft EA was held on December 5, 2017. Comments received during the meeting and circulation period were considered by GSA in this final decision. The finding, which is based on the EA, reflects GSA's determination that the construction of the proposed facility will not have a significant impact on the quality of the human or natural environment.

Finding

Pursuant to the provision of GSA Order ADM 1095.1F, the PBS NEPA Desk Guide, and the regulations issued by the Council of Environmental Quality, (40 CFR parts 1500 to 1508), this notice advises the public of our finding that the action described above will not significantly affect the quality of the human environment.

The Finding of No Significant Impact will become final 30 days after the publication of this notice, provided that no information leading to the contrary finding is received or comes to light during this period.

Dated: March 12, 2018.

Matthew Jear,

Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.

[FR Doc. 2018–05506 Filed 3–16–18; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS–OS–0990–0281–30D]

Notice for Request for Generic Clearance; Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before April 18, 2018.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier HHS–OS–0990–0281–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Prevention Communication Formative Research—Revision—OMB No. 0990–0281.

Type of Collection: Revision.

OMB No. 0990–0281—Office of Disease Prevention and Health Promotion.

Abstract: The Office of Disease Prevention and Health Promotion (ODPHP) is focused on developing and disseminating health information to the public. ODPHP faces an increasingly urgent interest in finding effective ways to communicate health information to America's diverse population. ODPHP strives to be responsive to the needs of America's diverse audiences while simultaneously serving all Americans across a range of channels, from print to new communication technologies. To carry out prevention information efforts, ODPHP is committed to conducting formative and usability research to provide guidance on the development and implementation of their communication and education efforts. The information collected will be used to improve communication, products, and services that support key office activities including: Healthy People, Dietary Guidelines for Americans, Physical Activity Guidelines for Americans, healthfinder.gov, and increasing health care quality and patient safety. ODPHP communicates through its websites (*www.healthfinder.gov* , *www.HealthyPeople.gov*, *www.health.gov*) and through other channels including social media, print materials, interactive training modules, and reports. This request builds on previous formative research approaches to place more emphasis on Web-based data collection to allow greater geographical diversity among respondents, to decrease respondent burden, and to save government costs. Data collection will be qualitative and quantitative and may include in-depth interviews, focus groups, web-based surveys, omnibus surveys, card sorting, and various forms of usability testing of materials and interactive tools to assess the public's understanding of disease prevention and health promotion content, responses to prototype materials, and barriers to effective use. The program is requesting a 3-year clearance.

Likely Respondents: Respondents are likely to be either consumers or health professionals.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Consumers (screening & omnibus survey)	7725	1	10/60	1287.5
Consumers (qualitative testing)	1250	1	1	1250
Consumers (focus groups)	575	1	1.5	862.5
Consumers (screening & intercepts)	35250	1	5/60	2937.5
Consumers (survey)	10000	1	15/60	2500

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Consumers (gatekeeper reviews)	325	1	30/60	162.5
Consumers (cognitive tests)	50	1	2	100
Health care professionals (screening)	1350	1	10/60	225
Health care professionals (interview)	50	1	1	50
Health care professionals (focus group)	400	1	1.5	600
Total				9,975

Terry S. Clark,

Office of the Secretary, Asst. Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2018–05441 Filed 3–16–18; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 of the NHLBI Special Emphasis Panel.

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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Loan Repayment Program.

Date: April 11, 2018.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health Rockledge II, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892, 301–435–0725, *kristen.page@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Strong Heart Study (SHS)—Field Centers (FC).

Date: April 11, 2018.

Time: 8:30 a.m. to 11:30 a.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–827–7940, *carolko@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Strong Heart Study (SHS)—Field Centers (FC).

Date: April 11, 2018.

Time: 11:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Chang Sook Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7188, Bethesda, MD 20892–7924, 301–827–7940, *carolko@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 13, 2018.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05455 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 of the NHLBI Special Emphasis Panel.

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 Heart, Lung, and Blood Institute Special Emphasis Panel; R13 Conference Grant Review.

Date: April 10, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: YingYing Li-Smerin, MD, Ph.D., Scientific Review Officer, Office of Scientific, Review/DERA National Heart, Lung, and Blood Institute 6701 Rockledge Drive, Room 7184, Bethesda, MD 20892–7924, 301–827–7942, *lismerin@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel TOPMed: Omics Phenotypes of Heart, Lung and Blood Disorders (X01).

Date: April 13, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National, Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7182, Bethesda, MD 20892 *susan.sunnarborg@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; HIV-Related Comorbidities Systems Biology.

Date: April 13, 2018.

Time: 12:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Rockledge II, 6701 Rockledge Drive, Room 7180, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tony L Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute National Institutes of Health, 6701 Rockledge Drive, Room 7180, Bethesda,

MD 20892–7924, 301–827–7913, *creazzotl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: March 13, 2018.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05456 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; NIBIB BRAIN Review, (2018/08).

Date: May 7, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 957, Bethesda, MD 20892, (301) 496–4773, *zhour@mail.nih.gov.*

Dated: March 13, 2018.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05457 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pediatric Immunotherapy Discovery and Development Network (PI–DDN) (U01).

Date: April 9, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Reston Hotel, 11810 Sunrise Valley Dr., Reston, VA 20191.

Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 806–2515, *chatterm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Convergent Neuroscience: From Genomic Association to Causation.

Date: April 10, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jana Drgonova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–827–2549, *jdrgonova@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIBIB Trailblazer Award for New and Early Stage Investigators (R21).

Date: April 11, 2018.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, 301–435–1850, *limc4@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05454 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: April 19–20, 2018.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, Solarium Conference Room 9S233, 10 Center Drive, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 13, 2018.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05458 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke, Special Emphasis Panel; NINDS Loan Repayment Program Review 2018.

Date: April 27, 2018.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301 496–4056, *lyonse@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: March 12, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05460 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pediatric Applications.

Date: March 29, 2018.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pilot Clinical Nephrology Applications.

Date: April 6, 2018.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; SBIR Phase II Exploratory Clinical Trials.

Date: April 9, 2018.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–17–123: Biomarkers for Diabetes and Digestive and Kidney and Urologic Diseases Using Biorepository Samples (R01).

Date: May 7, 2018.

Time: 12:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–012: NIDDK Program Projects (P01) in Kidney Diseases.

Date: May 9, 2018.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: March 13, 2018.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–05459 Filed 3–16–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2017–0071]

Privacy Act of 1974; System of Records

AGENCY: Privacy Office, Department of Homeland Security.

ACTION: Notice of modified privacy act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the U.S. Department of Homeland Security (DHS) proposes to modify and reissue a current DHS Immigration and Customs Enforcement (ICE) system of records titled, ''Department of Homeland Security (DHS)/U.S. Immigration and Customs Enforcement (ICE)-013 Alien Health Records System.'' This system of records allows the Department to maintain records that document the health screening, examination, and treatment of aliens arrested by the Department and detained by ICE for civil immigration purposes in facilities where the ICE Health Service Corps (IHSC) provides or oversees the provision of care. As a result of a review of this system, the Department is updating this system of records to include two new routine uses to describe how the Department may share information from this system. The purpose of this system is also being updated to include the new IHSC Patient Medical Record Portal (the ''Portal''), whereby individuals discharged from Immigration and Customs Enforcement facilities (either released from custody or removed from the United States) can log in and get a copy of their electronic medical record. As a result, a new category of records is being maintained in this system of records to support login capability for the Patient Medical Record Portal. Finally, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice. This modified system will be included in the DHS inventory of record systems.

DATES: Submit comments on or before April 18, 2018. This modified system will be effective upon publication. New or modified routine uses are effective April 18, 2018.

ADDRESSES: You may submit comments, identified by docket number DHS–2017–0071 by one of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–343–4010.
- *Mail:* Philip S. Kaplan, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Amber Smith, *ICEPrivacy@ice.dhs.gov,* (202) 732–3300, Privacy Officer, U.S. Immigration and Customs Enforcement, Washington, DC, 20536–5600. For privacy questions, please contact: Philip S. Kaplan, *Sam.Kaplan@hq.dhs.gov,* (202) 343–1717, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528–0655.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, DHS ICE proposes to modify and reissue a current DHS system of records notice (SORN) titled, ''DHS/ICE–013 Alien Health Records System.''

DHS is modifying the DHS/ICE–013 Alien Health Records SORN to add two new routine uses that will allow ICE to share information from the Alien Health Records system of records with the additional recipients for the specified purposes. DHS is also updating the purpose of this SORN to include the new IHSC Portal, whereby individuals discharged from ICE facilities (either released from custody or removed from the United States) can log in and get a copy of their electronic medical record. As a result, a new category of records is being maintained in this system of records to support login capability for the Portal.

Records covered by this system of records is maintained by the IHSC, a division within ICE's Office of Enforcement and Removal Operations (ERO). (Note: IHSC was previously known as the Division of Immigration Health Services (DIHS).) This system of records covers medical, mental health, and dental records that document the medical screening, examination, diagnosis, and treatment of aliens whom ICE detains for civil immigration purposes in facilities where IHSC provides or oversees the provision of medical care. It also covers information about prisoners of the U.S. Marshals Service (USMS) who are housed in a detention facility operated by or on behalf of ICE pursuant to agreements with the USMS, and where IHSC provides or oversees the provision of medical care. IHSC provides necessary and appropriate medical, mental health, and dental care to ICE detainees. IHSC medical staff may also procure consultation, diagnostic, treatment, or procedural services that IHSC deems necessary and appropriate from external health care providers in facilities outside of IHSC. Medical information is typically shared with other health care providers to ensure a detainee's continuity of care. Information about individuals with infectious diseases of public health significance may be shared with public health officials in order to prevent exposure to or transmission of the disease.

New routine uses, EE. and FF., have been added to allow ICE to share information covered by this SORN to third-parties for processing payments and for redress, respectively. Routine use GG., previously routine use EE., has been updated to simplify the formatting and text of the previously published notice.

In addition, a new category of records has been added in support of the newly-developed Portal. The Portal permits individuals discharged from ICE custody to access a copy of their electronic medical record for a period of up to 12 months after they are discharged. Logging into the Portal requires former ICE detainees to enter a unique username and password that ICE provides to the alien upon discharge from the detention facility. The login credentials have been added in the ''Categories of Records'' section below.

Finally, IHSC is not subject to the provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) regulation, ''Standards for Privacy of Individually Identifiable Health Information'' (Privacy Rule), within 45 CFR parts 160 and 164. IHSC does not meet the statutory definition of a covered plan under HIPAA, 42 U.S.C. 1320d(5), and is specifically excluded from the application of HIPAA as a ''government funded program . . . [w]hose principal activity is [t]he direct provision of healthcare to persons,'' 45 CFR 160.103 (definition of a health plan). Because IHSC is not a covered entity, the restrictions prescribed by the HIPAA Privacy Rule are not applicable.

Consistent with DHS's information sharing mission, information covered by the DHS/ICE–013 Alien Health Records system SORN may be shared with other DHS Components that have a need to know the information to carry out their national security, law enforcement, immigration, intelligence, or other homeland security functions. In addition, DHS/ICE may share information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies consistent with the routine uses set forth in this SORN.

This modified system will be included in DHS's inventory of record systems.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The

Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, and similarly, the Judicial Redress Act (JRA) provides covered persons with a statutory right to make requests for access and amendment to covered records, as defined by the JRA, along with judicial review for denials of such requests. In addition, the JRA prohibits disclosures of covered records, except as otherwise permitted by the Privacy Act.

Below is the description of the DHS/ICE–013 Alien Health Records System SORN. In accordance with 5 U.S.C. 552a(r), DHS has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER

Department of Homeland Security (DHS)/U.S. Immigration and Customs Enforcement (ICE)–013 Alien Health Records System.

SECURITY CLASSIFICATION:

Unclassified, For Official Use Only.

SYSTEM LOCATION:

Records are maintained in the ICE electronic health records (eHR) system and at detention facilities where care is provided by the ERO IHSC. IHSC provides care to aliens in all Service Processing Centers, which are ICE-operated facilities; at most contract detention facilities, which are owned and operated by a private company with which ICE contracts for detention services; and in some Intergovernmental Service Agreement (IGSA) facilities. IGSAs are facilities operated by a city, county, or state government, and ICE contracts with them for detention services, leases bed space, or both from them. Records are also maintained at ICE Headquarters in Washington, DC, and at ICE ERO field offices.

SYSTEM MANAGER(S):

Assistant Director, ICE Health Service Corps, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 44 U.S.C. 3101; 8 U.S.C. 1103, 1222, and 1231; and 42 U.S.C. 249.

PURPOSE(S) OF THE SYSTEM:

The purpose of this system is to document and facilitate the provision of medical, dental, and mental health care to individuals in ICE custody in facilities where care is provided by IHSC. The system also supports the collection, maintenance, and sharing of medical information for these individuals in the interest of public health, especially in the event of a public health emergency, such as an epidemic or pandemic. Finally, this system facilitates continuity of care after individuals are discharged from ICE facilities by providing individuals with direct access to their records and disclosing records to other parties (*e.g.,* medical providers), as appropriate.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Two categories of individuals are covered by this system. The first category is aliens detained by ICE for civil immigration purposes. These aliens have been booked into a detention facility where IHSC provides or oversees the provision of medical care. The second category is prisoners in the custody of the U.S. Marshals Service (USMS) who are being detained in facilities operated by or on behalf of ICE pursuant to agreements made with the USMS and who also receive medical care from IHSC. Hereafter, the term ''in ICE custody'' will be used to refer to both the aliens detained by ICE who receive medical care from IHSC, and the USMS prisoners being housed in IHSC-staffed detention facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records in this system include:

- Individual's name and aliases;
- Date of birth;
- Alien Registration Number (A-Number);
- USMS or Federal Bureau of Prisons Registration Number (if applicable);
- Phone numbers;
- Email addresses;
- Addresses;
- Country of Origin and Country of Citizenship;
- Nationality;
- Gender/Sex;
- Languages spoken;
- Medical history (self and family to establish medical history);
- Current medical conditions and diagnoses;
- Symptoms reported, including dates;
- Medical examination records and medical notes;
- Medical and mental health records and treatment plans;
- Dental history and records, including x-rays, treatment, and procedure records;
- Diagnostic data, such as tests ordered and test results;
- Problem list, which contains the diagnoses and medical symptoms or problems as determined by a medical practitioner or reported by the person;
- Records concerning the diagnosis and treatment of diseases or conditions that present a public health threat, including information about exposure of other individuals and reports to public health authorities;
- Correspondence related to an individual's medical, dental, and mental health care;
- External healthcare provider records (emergency room, hospitalizations, specialized care, records of previous medical care or testing) including medical or healthcare records received from other correctional systems or ICE detention facilities not staffed by IHSC;
- Payment authorizations for care provided by external healthcare providers and healthcare facilities;
- Evaluation records, including records related to mental competency evaluations;
- Prescription and over-the-counter drug records;
- Records related to medical grievances filed by individuals in ICE custody;
- Information about medical devices used by individuals such as hearing aids and pacemakers;
- Information about special needs and accommodations for an individual with disabilities, such as requiring a cane, wheelchair, special shoes, or needing to sleep on a bottom bunk;
- Physician or other medical/dental provider's name and credentials such as medical doctor, registered nurse, and Doctor of Dental Science;
- Refusal forms;
- Informed consent forms;
- Legal documents, such as death certificates, do-not-resuscitate orders, or advance directives (*e.g.,* living wills); and
- Login credentials used to access the Portal.

RECORD SOURCE CATEGORIES:

Records are obtained from the individual, immediate family members, physicians, nurses, dentists, medical laboratories and testing facilities, hospitals, other medical and dental care providers, other law enforcement or custodial agencies, other detention facilities, and public health agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside DHS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To the Department of Justice (DOJ), including the U.S. Attorneys Offices, or other federal agency conducting litigation or proceedings before any court, adjudicative, or administrative body, when it is relevant or necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity, only when DOJ or DHS has agreed to represent the employee; or

4. The United States or any agency thereof.

B. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

C. To the National Archives and Records Administration (NARA) or General Services Administration pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

D. To an agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

E. To appropriate agencies, entities, and persons when:

1. DHS determines that information from this system of records is reasonably necessary and otherwise compatible with the purpose of collection to assist another federal 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; or

2. DHS suspects or has confirmed that there has been a breach of this system of records; and (a) DHS has determined that as a result of the suspected or confirmed breach, there is a risk of harm to individuals, DHS (including its information systems, programs, and operations), the Federal Government, or national security; and (b) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DHS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

F. To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for DHS, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to DHS officers and employees.

G. To an appropriate federal, state, tribal, local, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

H. To hospitals, physicians, medical laboratories and testing facilities, and other medical service providers, for the purpose of diagnosing and treating medical conditions or arranging the care of individuals in ICE custody and of individuals released or about to be released from ICE custody including, released under an order of supervision, on their own recognizance, on bond, on parole, or in another alternative to detention program.

I. To prospective claimants and their attorneys for the purpose of negotiating the settlement of an actual or prospective claim against DHS or its current or former employees, in advance of the initiation of formal litigation or proceedings.

J. To immediate family members and attorneys or other agents acting on behalf of an alien to assist those individuals in determining the current medical condition of an alien in ICE custody, provided they can present adequate verification of a familial or agency relationship with the alien.

K. To federal, state, local, tribal, territorial, or foreign governmental agencies; multilateral governmental organizations; or other public health entities, for the purpose of protecting the vital interests of a record subject or other persons, including to assist such agencies or organizations during an epidemiological investigation, in facilitating continuity of care, preventing exposure to or transmission of a communicable or quarantinable disease of public health significance, or to combat other significant public health threats.

L. To hospitals, physicians, and other healthcare providers for the purpose of protecting the health and safety of individuals who may have been exposed to a contagion or biohazard, or to assist such persons or organizations in preventing exposure to or transmission of a communicable disease, a disease that requires quarantine, or to combat other significant public health threats.

M. To individuals for the purpose of determining if they have had contact in a custodial setting with a person known or suspected to have a communicable disease or disease that requires quarantine and to identify and protect the health and safety of others who may have been exposed.

N. To the U.S. Marshals Service (USMS) concerning USMS prisoners who are or who will be held in detention facilities operated by or on behalf of ICE, and to federal, state, local, tribal, or territorial law enforcement or correctional agencies concerning an individual in ICE custody who is to be transferred to such agency's custody, in order to coordinate the transportation, custody, and care of these individuals.

O. To third parties to facilitate release or placement of an individual (*e.g.,* at a group home, homeless shelter, with a family member) whose case is being considered or prepared for release from DHS custody, or who has been released from DHS custody, but only such information that is relevant and necessary to arrange housing, continuing medical care, or other social services for the individual.

P. To a domestic government agency or other appropriate healthcare authority for the purpose of providing information about an individual whose case is being considered or prepared for release from DHS custody or who has been released from DHS custody who, due to a condition such as mental illness, may pose a health or safety risk to himself/herself or to the community. DHS will only disclose health information about the individual that is relevant to the health or safety risk the individual may pose, or the means to mitigate that risk (*e.g.,* the alien's need to remain on certain medication for a serious mental health condition).

Q. To foreign governments for the purpose of coordinating and conducting

the removal or return of aliens from the United States to other nations when disclosure of information about the alien's health is necessary or advisable to safeguard the public health, to facilitate transportation of the alien, to obtain travel documents for the alien, to ensure continuity of medical care for the alien, or is otherwise required by international agreement or law. Disclosure of medical information may occur after the alien's removal when it is necessary or advisable to assist the foreign government with the alien's ongoing medical care.

R. To the Federal Bureau of Prisons and other government agencies for the purpose of providing health information about an alien when custody of the alien is being transferred from DHS to the other agency. This will include the transfer of information about unaccompanied minor children to the U.S. Department of Health and Human Services (HHS).

S. To state, local, tribal or territorial agencies or other appropriate authority for the purpose of reporting vital statistics (*e.g.,* births, deaths).

T. To a public or professional licensing organization when such information indicates, either by itself or in combination with other information, a violation or potential violation of professional standards, or reflects on the moral, educational, or professional qualifications of a healthcare provider who is licensed or is seeking to become licensed.

U. To courts, magistrates, administrative tribunals, opposing counsel, parties, and witnesses, in the course of immigration, civil, or criminal proceedings (including discovery, presentation of evidence, and settlement negotiations) and when DHS determines that use of such records is relevant and necessary to the litigation before a court or adjudicative body when any of the following is a party to or have an interest in the litigation:

1. DHS or any component thereof;

2. Any employee or former employee of DHS in his/her official capacity;

3. Any employee or former employee of DHS in his/her individual capacity when the government has agreed to represent the employee; or

4. The United States, when DHS determines that litigation is likely to affect DHS or any of its components.

V. To an attorney or representative (as defined in 8 CFR 1.2, 292.1, 1001.1(f), or 1292.1) who is acting on behalf of an individual covered by this system of records in connection with any proceeding before U.S. Citizenship and Immigration Services (USCIS), ICE, or U.S. Customs and Border Protection (CBP) or the DOJ Executive Office for Immigration Review.

W. To international, foreign, intergovernmental, and multinational government agencies, authorities, and organizations in accordance with law and formal or informal international arrangements.

X. To a coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime), performance of an autopsy, or identifying cause of death.

Y. Consistent with the requirements of the Immigration and Nationality Act, to HHS, the Centers for Disease Control and Prevention (CDC), or to any state or local health authorities, to ensure that all health issues potentially affecting public health and safety in the United States are being, or have been, adequately addressed.

Z. To a former employee of DHS for purposes of responding to an official inquiry by federal, state, local, tribal, or territorial government agencies or professional licensing authorities; or facilitating communications with a former employee that may be relevant and necessary for personnel-related or other official purposes when DHS requires information or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

AA. To the U.S. Department of State when it requires information to consider or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about an alien or an enforcement operation with transnational implications.

BB. To federal, state, local, tribal, territorial, or foreign government agencies or entities or multinational government agencies when DHS desires to exchange relevant data for the purpose of developing, testing, or implementing new software or technology whose purpose is related to this system of records.

CC. To federal, state, local, tribal, territorial, or foreign government agencies, medical personnel, or other individuals when DHS desires to use de-identified data for illustrative or informative purposes in training, in presentations, or for other similar purposes.

DD. To medical and mental health professionals for the purpose of assessing an individual's mental competency before the DOJ Executive Office for Immigration Review.

EE. To third parties for the purpose of processing payment when external healthcare providers render medical services to individuals in ICE custody on behalf of ICE.

FF. To federal, state, local, tribal, territorial, international, or foreign government agencies or entities for the purpose of consulting with that agency or entity:

1. To assist in making a determination regarding redress for an individual in connection with the operations of a DHS component or program;

2. To verify the identity of an individual seeking redress in connection with the operations of a DHS component or program; or

3. To verify the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

GG. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DHS, or when disclosure is necessary to demonstrate the accountability of DHS's officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

DHS/ICE stores records in this system electronically or on paper in secure facilities in a locked drawer behind a locked door. The records may be stored on magnetic disc, tape, digital media, and CD–ROM.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name, Alien Registration Number (A-Number), Subject ID, or USMS/Federal Bureau of Prisons Registration Number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

NARA has approved ICE records schedules that outline the retention periods for detainee medical records. Consistent with the DAA–567–2015–002 and N1–567–08–001 records schedules:

(1) Medical records for an adult will be retained for ten (10) years after an individual has been released from ICE custody, and then shall be destroyed;

(2) Medical records about a minor will be retained until the minor has reached the age of twenty-seven (27) years in order to comply with state laws regarding the retention of medical

records related to minors, and then shall be destroyed;

(3) Annual data on detainees who have died in ICE custody that has been transferred to the Bureau of Justice Statistics (BJS) and annual reports regarding infectious diseases will be retained for ten (10) years, and then destroyed;

(4) Various statistical reports will be retained permanently by NARA; and

(5) Monthly and annual statistical reports, including those regarding workload operations, will be destroyed when no longer needed for business purposes.

ICE is currently in the process of developing a records retention schedule with NARA for the various records covered by this SORN that consolidates DAA–567–2015–002 and N1–567–08–001.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

DHS/ICE safeguards records in this system according to applicable rules and policies, including all applicable DHS automated systems security and access policies. ICE has imposed strict controls to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals seeking access to and notification of any record contained in this system of records may submit a request in writing to the ICE FOIA Officer, whose contact information can be found at *http://www.dhs.gov/foia* under ''Contact Information.'' If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Chief Privacy Officer and Chief Freedom of Information Act Officer, Department of Homeland Security, Washington, DC 20528–0655. Even if neither the Privacy Act nor the Judicial Redress Act provides a right of access, certain records about you may be available under the Freedom of Information Act.

When an individual is seeking records about himself or herself from this system of records or any other Departmental system of records, the individual's request must conform with the Privacy Act regulations set forth in 6 CFR part 5. The individual must first verify his/her identity, meaning that the individual must provide his/her full name, current address, and date and place of birth. The individual must sign the request, and the individual's signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization. While no specific form is required, an individual may obtain forms for this purpose from the Chief Privacy Officer and Chief Freedom of Information Act Officer, *http://www.dhs.gov/foia* or 1–866–431–0486. In addition, the individual should:

- Explain why the individual believes the Department would have information on him/her;
- Identify which component(s) of the Department the individual believes may have the information about him/her;
- Specify when the individual believes the records would have been created; and
- Provide any other information that will help the FOIA staff determine which DHS component agency may have responsive records;
- If an individual's request seeks records pertaining to another living individual, the first individual must include a statement from the second individual certifying his/her agreement for the first individual to access his/her records.

Without the above information, the component(s) may not be able to conduct an effective search, and the individual's request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

For records covered by the Privacy Act or covered JRA records, see ''Record Access Procedures'' above. Individuals who wish to contest the accuracy of records in this system of records should submit these requests to the ICE Office of Information Governance and Privacy—Privacy Division. Requests must comply with verification of identity requirements set forth in Department of Homeland Security Privacy Act regulations at 6 CFR 5.21(d). Please specify the nature of the complaint and provide any supporting documentation. By mail (please note substantial delivery delays exist): ICE Office of Information Governance and Privacy—Privacy Division, 500 12th Street SW, Mail Stop 5004, Washington, DC 20536. By email: *ICEPrivacy@ice.dhs.gov.* Please contact the Privacy Division with any questions about submitting a request or complaint at 202–732–3300 or *ICEPrivacy@ice.dhs.gov.*

NOTIFICATION PROCEDURES:

See ''Record Access Procedures.''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

80 FR 239 (Jan. 5, 2015); 74 FR 57688 (Nov. 9, 2009).

Philip S. Kaplan,

Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2018–05542 Filed 3–16–18; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2017–N018; FXES11140400000–189–FF04EF2000]

Endangered and Threatened Wildlife and Plants; Receipt of Two Applications for Incidental Take Permits; Availability of Low-Effect Proposed Habitat Conservation Plans and Associated Documents; Polk County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment/information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability for comment of two applications for incidental take permits (ITP) under the Endangered Species Act of 1973, as amended (Act). The City of Winter Haven and Savi Investments, LLC each request a separate ITP for take of the federally listed sand skink and blue-tailed mole skink, incidental to construction in Polk County, Florida. We request public comments on each of the applications and accompanying habitat conservation plans (HCPs), as well as on our preliminary determination that both HCPs qualify as low effect under the National Environmental Policy Act. To make these determinations, we used environmental action statements and low-effect screening forms, which are also available for review.

DATES: We must receive your written comments on the ITP applications and HCPs on or before April 18, 2018.

ADDRESSES:

Obtaining Documents: You may obtain a copies of the ITP applications and HCPs by writing to Ms. Elizabeth Landrum, South Florida Ecological Services Office, Attn: Permit number TE59397C–0 (for City of Winter Haven) and/or TE60480C–0 (for Savi

Investments), U.S. Fish and Wildlife Service, 1339 20th Street, Vero Beach, FL 32960–3559, or by email to *verobeach@fws.gov* and put Permit number TE59397C–0 (for City of Winter Haven) and/or TE60480C–0 (for Savi Investments) in the subject line. We also will make the ITP applications and HCPs available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office address.

Submitting Comments: See Submitting Comments under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Landrum, South Florida Ecological Services Office (see **ADDRESSES**); telephone: 772–469–4304.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce the availability for comment of two applications for incidental take permits (ITP) under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act). The City of Winter Haven and Savi Investments, LLC each request a separate ITP for take of the federally listed sand skink (*Neoseps reynoldsi*) and the blue-tailed mole skink (*Eumeces egregius lividus*), incidental to construction in Polk County, Florida. We request public comments on each of the applications and accompanying habitat conservation plans (HCPs), as well as on our preliminary determination that both HCPs qualify as low effect under the National Environmental Policy Act. To make these determinations, we used environmental action statements and low-effect screening forms, which are also available for review. The Service listed the both skink species as threatened in 1987 (November 6, 1987; 52 FR 42658, effective December 7, 1987).

Background

Section 9 of the ESA and our implementing regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17 prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1532(19)). However, under limited circumstances, we issue permits to authorize incidental take—*i.e.,* take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

Regulations governing incidental take permits for endangered and threatened species are at 50 CFR 17.22 and 17.32, respectively. The Act's take prohibitions do not apply to federally listed plants on private lands unless such take would violate State law. In addition to meeting other criteria, the take authorized by an incidental take permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

Applicants' Proposed Projects

City of Winter Haven

The City of Winter Haven, Florida (TE59397C–0) is requesting a 2-year ITP for take incidental to construction of the Lake Maude Community Recreational Complex and associated infrastructure on a 24.7-acre parcel in Polk County, Florida. The project site is located in Section 21, Township 28 South, Range 26 East of the County. The project would permanently alter 0.36 acres of the species' feeding, breeding, and sheltering habitat. The City of Winter Haven proposes to mitigate for impacts to the covered species by purchasing 0.72 mitigation credits from a Service-approved conservation bank.

Savi Investments, LLC

Savi Investments, LLC requests a 10-year ITP for take of the covered species incidental to land preparation and construction of Madera Park Phase II, a single-family residential development, and associated infrastructure on a 5.7-acre parcel in Polk County, Florida. Savi Investments, LLC's project site is located in Section 12, Township 25 South, Range 26 East of the County. The project would permanently alter 1.2 acres of the species' feeding, breeding, and sheltering habitat. Savi Investments, LLC proposes to purchase 2.4 mitigation credits from a Service-approved conservation bank to mitigate for impacts to the covered species.

Our Preliminary Determination

We have made a preliminary determination that both of the applicants' projects, including the mitigation measures, will individually and cumulatively have a minor or negligible effect on the covered species and the environment, so as to be ''low effect'' and qualify for categorical exclusion under the National Environmental Policy Act (NEPA), as provided by 43 CFR 46.205 and 43 CFR 46.210. Our preliminary determinations that issuance of the ITPs qualifies as low effect are based on the following three criteria: (1) Implementation of the projects would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the projects would result in minor or negligible effects on other environmental values or resources; and (3) Impacts of the projects, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result over time in significant cumulative effects to environmental values or resources. These preliminary determinations may be revised based on our review of the public comments submitted in response to this notice.

Next Steps

We will evaluate each HCP and comments submitted to determine whether each application meets the requirements of section 10(a) of the Act. We will also conduct an intra-Service consultation on each application to evaluate take of the covered species in accordance with section 7 of the Act. We will use the results of each consultation, in combination with the above findings, in our analyses of whether or not to issue the ITPs. If it is determined that the requirements of the Act are met as to either or both applications, the associated ITP will be issued.

Submitting Comments

If you wish to comment on the ITP applications or HCPs, you may submit comments by any one of the following methods. Make sure to put the appropriate permit number in your email subject line or in your fax (*i.e.,* City of Winter Haven/TE59397C–0 and/or Savi Investments/TE60480C–0).

Email: verobeach@fws.gov.

Fax: Elizabeth Landrum, 772–562–4288.

U.S. mail: See **ADDRESSES**.

In-person drop-off: You may drop off comments or request information during regular business hours at the address in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comments that your personal identifying information be withheld from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under Section 10 of the Endangered Species Act (16

U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Roxanna Hinzman,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. 2018–05592 Filed 3–15–18; 4:15 pm]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[17XL1109AF LLUTC03000. L14400000FR0000; UTU–92050]

Notice of Realty Action: Recreation and Public Purposes Act Classification; Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for lease or conveyance to the City of Santa Clara, Utah, under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended, 52.15 acres of public land located in Washington County, Utah. The City of Santa Clara proposes to develop the land for a park.

DATES: Written comments regarding this proposed classification for lease or conveyance must be postmarked or received no later than May 3, 2018. Comments may be mailed, hand delivered, or faxed. The BLM will not consider comments received via telephone calls or email. Absent any adverse comments, this classification will become effective May 18, 2018.

ADDRESSES: Submit written comments via mail or hand delivery to the BLM, St. George Field Office, Field Manager, 345 E. Riverside Drive, St. George, UT 84790. Fax comments to 435–688–3252.

FOR FURTHER INFORMATION CONTACT: Realty Specialist Teresa Burke by email, *tsburke@blm.gov,* or by telephone, 435–688–3326. Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, seven days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public land in Washington County, Utah, was examined and found suitable for classification for lease or conveyance for a park under the provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*), and 43 CFR 2740:

Salt Lake Meridian, Utah

T. 42 S., R. 16 W.,
Sec. 17, lots 10 and 11;
Sec. 20, lots 4 and 5.

The area described aggregate 52.15 acres.

This classification is in conformance with the St. George Resource Management Plan (RMP), approved in March 1999. The parcel is identified for disposal in the RMP Record of Decision (decision LD–06), and is not needed for any other Federal purpose. Lease or conveyance is consistent with the BLM's planning for the area and is in the public's interest. The BLM analyzed the parcel in a site-specific Environmental Assessment numbered DOI–BLM–UT–C030–2017–0002. A conveyance would be subject to the provisions of the R&PP Act, applicable regulations of the Secretary of the Interior, and the following reservations to the United States, terms and conditions:

1. A right-of-way reservation for ditches or canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. The conveyance will be subject to all valid existing rights of record.
3. All minerals are reserved to the United States, together with the right to prospect for, mine, and remove the minerals, under applicable laws, and regulations established by the Secretary of the Interior.
4. An indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operation on the land.
5. A limited reversionary provision stating that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of conveyance. No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal, or for any other purpose, which may result in the disposal, placement, or release of any hazardous substance.
6. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

On publication of this Notice, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease, or conveyance under the R&PP Act and leasing under the mineral leasing laws.

Information concerning the lease/conveyance, including planning and environmental documents are available for review during business hours, 7:30 a.m. to 4:30 p.m., Mountain Time, Monday through Friday, at the BLM, St. George Field Office, except during Federal holidays, or online at *https://go.usa.gov/xRpD7.*

Classification Comments: Interested parties may submit comments involving the suitability of the land for the proposed facilities. Comments on classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use (or uses) of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with Federal and State programs. Application comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development and management, and whether the BLM followed proper administrative procedures in reaching the decision to lease and convey under the R&PP Act.

Before including your address, phone number, email address, or other personal identifying information in any comment, be aware that your entire comment including any personal identifying information may be made publicly available at any time. Requests to withhold personal identifying information from public review can be submitted, but the BLM cannot guarantee that it will be able to do so.

Any adverse comments will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification of the land described in this Notice will become effective May 18, 2018.

The land will not be available for lease or conveyance until after the decision becomes effective.

Authority: 43 CFR 2741.5

Edwin L. Roberson,

State Director.

[FR Doc. 2018–05544 Filed 3–16–18; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[18XL1109AF LLUTC03000. L14400000.FR0000; UTU–91955–01]

Notice of Realty Action: Recreation and Public Purposes Act Classification for the Conveyance of Public Land in Washington County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) has examined and found suitable for classification for conveyance to Washington County Special Services District (County) under the provisions of the Recreation and Public Purposes Act (R&PP), as amended, 55 acres of public land located in Washington County, Utah. The County proposes to expand its existing landfill.

DATES: Interested parties may submit written comments regarding this classification for lease or conveyance until May 3, 2018. The conveyance would not occur prior to May 18, 2018. Comments may be mailed, hand-delivered, or faxed to 435–688–3252. Telephone calls and emails will not be accepted.

ADDRESSES: Submit written comments to the BLM, St. George Field Office, Field Manager, 345 E Riverside Drive, St. George, UT 84790.

FOR FURTHER INFORMATION CONTACT: Teresa Burke by email: *tsburke@blm.gov,* or by telephone: 435–688–3326. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The following described public land in Washington County, Utah, has been examined and found suitable for classification for conveyance for an addition to the existing landfill under provisions of the R&PP Act, as amended (43 U.S.C. 869 *et seq.*), and 43 CFR 2740:

Salt Lake Meridian, Utah

T. 42 S., R. 14 W.,
Sec. 8, SW1/4SE1/4NE1/4, NE1/4NE1/4SE1/4SW1/4, S1/2NE1/4SE1/4SW1/4, NE1/4SW1/4SE1/4SW1/4, S1/2SW1/4SE1/4SW1/4, NE1/4NW1/4SE1/4, and SW1/4NW1/4SE1/4;
Sec. 9, SW1/4NW1/4NW1/4.

The areas described aggregate 55 acres.

This classification is in conformance with the St. George Resource Management Plan (RMP), approved in March 1999, and is not needed for any Federal purpose. Conveyance is consistent with BLM planning for the area and would be in the public interest. The parcel was analyzed in a site-specific Environmental Assessment numbered DOI–BLM–UT–C030–2016–0055. A conveyance would be subject to the provisions of the R&PP Act, applicable regulations of the Secretary of the Interior, including, but not limited to, 43 CFR subpart 2743 and the following reservations to the United States:

1. A right-of-way reservation for ditches or canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).
2. The conveyance will be subject to all valid existing rights of record.
3. All minerals are reserved to the United States, together with the right to prospect for, mine, and remove the minerals, under applicable laws and regulations established by the Secretary of the Interior.
4. An indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operation on the land.
5. A limited reversionary provision stating that the title shall revert to the United States upon a finding, after notice and opportunity for a hearing, that the patentee has not substantially developed the lands in accordance with the approved plan of development on or before the date five years after the date of conveyance. No portion of the land shall under any circumstance revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance.
6. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances.
7. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose(s) specified in the application and the approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon.
8. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

On publication of this Notice, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act and leasing under the mineral leasing laws. Information concerning the conveyance, including planning and environmental documents, are available for review during business hours, 7:30 a.m. to 4:30 p.m., Mountain Time, Monday through Friday, at the BLM, St. George Field Office, except during Federal holidays.

Comments on the classification are restricted to four subjects:

(1) Whether the land is physically suited for the proposal;

(2) Whether the use will maximize the future uses of the land;

(3) Whether the use is consistent with local planning and zoning; and

(4) If the use is consistent with State and Federal programs.

Application Comments: You may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for the requested R&PP use.

Before including your address, phone number, email address, or other personal identifying information in any comment, be aware that your entire comment including any personal identifying information may be made publicly available at any time. Requests to withhold personal identifying information from public review can be submitted, but the BLM cannot guarantee that it will be able to do so. Any adverse comments will be reviewed by the BLM State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2741.5.

Edwin L. Roberson,

State Director.

[FR Doc. 2018–05546 Filed 3–16–18; 8:45 am]

BILLING CODE 4310–DQ–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–583 and 731–TA–1381 (Final)]

Cast Iron Soil Pipe Fittings From China; Scheduling of the Final Phase of Countervailing Duty and Anti-Dumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–583 and 731–TA–1381 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of cast iron soil pipe fittings from China, provided for in subheading 7307.11.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (''Commerce'') to be subsidized and sold at less-than-fair-value.[1]

DATES: February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Junie Joseph (202–205–3363), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of cast iron soil pipe fittings, and that such products are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on July 13, 2017, by Cast Iron Soil Pipe Institute, Mundelein, Illinois.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 12, 2018, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, June 26, 2018, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 20, 2018. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on June 25, 2018, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 19, 2018. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 9, 2018. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 9, 2018. On July 27, 2018, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before July 31, 2018, but such final comments must not contain new factual

[1] For purposes of these investigations, Commerce has defined the subject merchandise as ''cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains, and other common or special fittings, with or without side inlets.''

For a full description of Commerce's scope, see *Cast Iron Soil Pipe Fittings from China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination and Extension of Provisional Measures,* 83 FR 7145, February 20, 2018.

information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: March 14, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05502 Filed 3–16–18; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–597 and 731–TA–1407 (Preliminary)]

Cast Iron Soil Pipe From China

Determinations

On the basis of the record [1] 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 cast iron soil pipe from China, provided for in subheading 7303.00.00 (statistical reporting number 7303.00.0030) of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''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 U.S. 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 January 26, 2018, the Cast Iron Soil Pipe Institute, Mundelein, Illinois, filed a petition with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of cast iron soil pipe from China. Accordingly, effective January 26, 2018, 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–597 and antidumping duty investigation No. 731–TA–1407 (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 February 1, 2018 (83 FR 4684). The conference was held in Washington, DC, on February 16, 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 March 13, 2018.[2] The views of the Commission are contained in USITC Publication 4769 (March, 2018), entitled *Cast Iron Soil Pipe From China: Investigation Nos. 701–TA–597 and 731–TA–1407 (Preliminary).*

By order of the Commission.

Issued: March 13, 2018.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2018–05435 Filed 3–16–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Cooperative Research Group on Particle Sensor Performance and Durability

Notice is hereby given that, on February 6, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Particle Sensor Performance and Durability (''PSPD–II'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Hino Motors, Ltd., Tokyo, JAPAN, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PSPD–II intends to file additional written notifications disclosing all changes in membership.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Due to the Federal government weather-related closure on March 2, 2018, these investigations conducted under authority of Title VII of the Tariff Act of 1930 have been tolled by one day pursuant to 19 U.S.C. 1671b(a)(2), 1673b(a)(2).

On March 15, 2017, PSPD–II filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on April 14, 2017 (82 FR 18012).

The last notification was filed with the Department on April 27, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 7, 2017 (82 FR 26514).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–05536 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Cooperative Research Group on Separation Technology Research Program—Phase 2

Notice is hereby given that, on February 14, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Separation Technology Research Program—Phase 2 (''STAR—Phase 2'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the party to the venture are: Amistco Separation Products, Inc. d/b/a AMACS Process Tower Internals (AMACS), Houston, TX; Chevron Energy Technology Co., a Division of Chevron USA, Inc., Houston, TX; Costacurta S.p.A.–VICO, Milano, ITALY; ExxonMobil Upstream Research Co., Spring, TX; Frames Separation Technologies B.V., Utrecht, THE NETHERLANDS; KGGP, LLC, Wichita, KS; Linde AF—Linde Engineering Division, Pullach, GERMANY; Mueller Environmental Design, Inc., Brookshire, TX; Single Buoy Moorings, Inc., Marly, SWITZERLAND; Shell International Exploration and Production Inc., Houston, TX; Sulzer Chemtech Ltd., Winterthur, SWITZERLAND; Transeparation USA LLC, Houston, TX; and SAIPEM SA, Cedex, FRANCE.

The general area of STAR—Phase 2's planned activity is to systematically test separation equipment and increase fundamental knowledge in phase separation. This will be accomplished by conducting studies on phase separation that can lead to the collection of data on equipment performance, which in turn can be used for driving separator design improvements and operational decisions.

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–05533 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on February 13, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ARM, Ltd., Cambridge, UNITED KINGDOM, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on November 14, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 6, 2017 (82 FR 57616).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–05519 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on January 25, 2018, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, since September 27, 2017, ASME has published one new standard and initiated four new standards activities within the general nature and scope of ASME's standards development activities, as specified in its original notification. More detail regarding these changes can be found at *www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on September 29, 2017. A notice was filed in the **Federal Register** pursuant to Section 6(b) of the Act on October 25, 2017 (82 FR 49425).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2018–05517 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 17–38]

David A. Ruben, M.D.; Decision and Order

On June 12, 2017, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to David A. Ruben, M.D. (Respondent), of Tucson, Arizona. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration No. AR9258434 on the ground that he ''do[es] not have authority to handle controlled substances in the State of Arizona, the [S]tate in which [he is] registered with the DEA.'' Order to Show Cause, at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent is the holder of Certificate of Registration No. AR9258434 ''as a data-waived DW/30 practitioner in schedules II through V,'' at the registered address of 2016 South 4th Avenue, Tucson, Arizona. *Id.* The Order also alleged that this registration does not expire until April 30, 2020. *Id.*

Regarding the substantive grounds for the proceeding, the Show Cause Order alleged that on April 6, 2017, Respondent's ''authority to prescribe and administer controlled substances in the State of Arizona was suspended,'' and that Arizona is ''the [S]tate in which [he is] registered with the DEA.'' *Id.* Based on his ''lack of authority to [dispense] controlled substances in . . . Arizona,'' the Order asserted that ''DEA must revoke'' his registration. *Id.* (citing 21 U.S.C. 823(f)(1) and 824(a)(3)).

The Show Cause Order notified Respondent of (1) his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing ''[w]ithin 30 days after the date of receipt of this Order to Show Cause,'' (2) the procedure for electing either option, and (3) the consequence for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Show Cause Order also notified Respondent of his right to submit a corrective action plan (hereinafter, CAP) to the Assistant Administrator, Diversion Control Division, and the procedure for doing so. *Id.* at 2–3.

On July 18, 2017, Respondent submitted his CAP by letter from his counsel (dated July 12, 2017) to the Agency. In his CAP, Respondent explained:

> Dr. Ruben intends to continue to pursue and to prevail on the appeal of the underlying order issued by [t]he Arizona Medical [B]oard . . . . Alleged violation of that order is the basis of the Arizona Medical Board suspension dated April 6, 2017. The underlying matter is on appeal in Maricopa County Arizona Superior Court . . .
>
> At least part of that Order being appealed stems from an Arizona license restriction of Dr. Ruben as to Schedule [II] drugs which was imposed partly as punishment for an earlier Certificate [of] Suspension by the DEA,[1] which itself was based upon the earlier same Arizona suspension dating from 2009 and 2010. The entire matter is ludicrous, and will result in the lifting of the suspension of concern here, as this is the fourth iteration of punishment by the Arizona Medical Board and the DEA cannibalizing one another's actions in order to inflict multiple punishments for the same acts from 2009 and 2010.
>
> All remaining bases of the Arizona suspension will also be overturned as unsupported by the evidence. The DEA [Show Cause Order] is premature and unnecessary and any hearing should be continued pending the outcome of the remaining state matters on appeal.

CAP, at 1. On December 4, 2017, the Acting Assistant Administrator rejected Respondent's CAP and further ''determined there is no potential modification of your []CAP that could or would alter my decision in this regard.'' *See* Letter from Acting Assistant Administrator Demetra Ashley to Respondent (dated December 4, 2017) (hereinafter CAP Rejection Ltr or CAP Rejection Letter), at 1.[2]

On July 18, 2017, Respondent also filed a letter with the Office of Administrative Law Judges (OALJ) pursuant to which he requested a hearing on the allegation of the Show Cause Order. Letter from Respondent's Counsel to Hearing Clerk (dated July 12, 2017) (hereinafter, Hearing Request). The matter was placed on the OALJ's docket and assigned to Administrative Law Judge Charles Wm. Dorman (hereinafter, ALJ). On July 21, 2017, the ALJ issued an order entitled ''Briefing Schedule for Lack of State Authority Allegations'' in which the ALJ found, *inter alia,* that ''[t]he Respondent filed a timely Request for Hearing.'' Briefing Schedule for Lack of State Authority Allegations (hereinafter, Briefing Order), at 1.[3]

Pursuant to 21 CFR 1301.43(a), ''any person entitled to a hearing . . . and desiring a hearing shall, within 30 days after the date of receipt of the order to show cause, . . . file with the Administrator a written request for a hearing.'' *Accord* Show Cause Order, at 2. The ALJ did not indicate in his Briefing Order or in his Recommended Decision—and the rest of the administrative record does not indicate—when Respondent received the Show Cause Order. Without any evidence in the record establishing when Respondent received the Show Cause Order, the only way in which I could find that Respondent's Hearing Request was timely is if it had been filed with the Administrator within 30 days of the June 12, 2017 date of the Show Cause Order. However, the OALJ did not receive Respondent's Hearing Request until July 18, 2017.[4] Hearing Request, at 1. Accordingly, I find that Respondent's Hearing Request was not

[1] On June 18, 2013, the Agency suspended Respondent's DEA Certificate of Registration for one year and imposed four conditions on his registration for two years. *David A. Ruben, M.D.,* 78 FR 38363, 38387–88 (2013). The Ninth Circuit Court of Appeals denied his petition for review of the Agency's decision. 617 Fed. Appx. 837 (9th Cir. 2015) (unpublished).

[2] Respondent's CAP was attached as Exhibit 1 to Respondent's counsel's letter requesting a hearing. CAP, at 1 (attached as ''EXHIBIT 1 TO REQUEST FOR HEARING'' to Letter from Respondent's Counsel to Hearing Clerk (dated July 12, 2017). The letter setting forth Respondent's request for a hearing (hereinafter, Hearing Request) was addressed to the Office of Administrative Law Judges (OALJ) as well as to the Assistant Administrator, Diversion Control Division, Louis Milione. Hearing Request, at 1. As discussed more fully *infra,* the record reflects that the OALJ received this letter on July 18, 2018. *See id.* In addition, the Acting Assistant Administrator's CAP Rejection Letter attached a copy of Respondent's Hearing Request (and a copy of the CAP) date-stamped ''Jul 18, 2017'' and a handwritten notation above it stating ''DC received.'' The CAP Rejection Letter stated that her office did not receive the CAP until September 29, 2017. CAP Rejection Ltr, at 1. The record does not reflect facts explaining why the CAP Rejection Letter states that the CAP was not received by DEA's Diversion Control Division until September 29, 2017.

In the CAP Rejection Letter, the Acting Assistant Administrator states that she was responding to Respondent's CAP ''in connection with an Order to Show Cause . . . issued by the Assistant Administrator on June 29, 2017.'' *Id.* As already noted, however, the Show Cause Order was issued on June 12, 2017. Show Cause Order, at 1. The CAP Rejection Letter does attach, *inter alia,* a copy of Respondent's Hearing Request and CAP in connection with the June 12, 2017 Show Cause Order. *See* Attachment to CAP Rejection Ltr at 2–4. Thus, I find that the CAP Rejection Letter's reference to a June 29, 2017 Show Cause Order was merely a scrivener's error and that the Acting Assistant Administrator intended to refer to the June 12, 2017 Show Cause Order.

[3] Although the date next to the ALJ's signature states ''June 21, 2017,'' *id.* at 2, the ALJ's Docket Sheet indicates that this order was signed on ''July 21, 2017.'' I find that the date in the Briefing Order was a scrivener's error and that in fact the ALJ signed the order on July 21, 2017 as reflected in the ALJ's Docket Sheet.

[4] Although the front of Respondent's Hearing Request is stamped ''Received'' by the Office of Administrative Law Judges on July 18, 2017, the photocopy of the envelope that purportedly contained Respondent's Hearing Request reveals a ''Received/Date'' of ''July 17, 2017.'' *Compare* Hearing Request, at 1, *with id.* at 4. In any event, neither date is within 30 days of the June 12, 2017 date of the Show Cause Order.

timely filed pursuant to 21 CFR 1301.43(a), and as a result, Respondent waived his right to a hearing.

In the absence of a timely hearing request, I also find that the ALJ consequently lacked jurisdiction to hear the case. *See Brown's Discount Apothecary BC, Inc., and Bolling Apothecary, Inc.,* 80 FR 57393, 57394 (2015) (''in the absence of a hearing request, the ALJ had no authority to rule on the issue of whether its registration should be revoked''). I therefore cancel the hearing *nunc pro tunc* held by the ALJ by summary disposition. *See* 21 CFR 1301.43(e). Accordingly, I will treat this case as a Request for Final Agency Action and issue this Decision and Order based on the relevant evidence forwarded to my office by the ALJ on September 18, 2017.[5] *See id.* I make the following findings.

Findings of Fact

Respondent is a holder of DEA Certificate of Registration No. AR9258434, as well as DATA-Waiver identification number XR9258434. Government Exhibit (GX) 1 to Govt. Mot. Pursuant to his registration, Respondent is authorized to dispense controlled substances in schedules III[6] through V as a practitioner, and he is authorized to dispense or prescribe schedule III–V narcotic controlled substances which ''have been approved by the Food and Drug Administration . . . specifically for use in maintenance or detoxification treatment'' for up to 100 patients. 21 CFR 1301.28(a) & (b)(1)(iii); *see* GX 1. Respondent's registered address is 2016 South 4th Avenue, Tucson, Arizona. GX 1. Respondent's registration and DATA-Waiver authority do not expire until April 30, 2020. *Id.*

On April 6, 2017, the Arizona Medical Board issued an Order stating the Respondent's ''license to practice allopathic medicine in the State of Arizona . . . is summarily suspended.'' GX 2, at 7. The Board also prohibited Respondent ''from practicing medicine in the State of Arizona'' and ''from prescribing any form of treatment including prescription medications or injections of any kind.'' *Id.* Finally, the Board stated that ''Respondent is entitled to a formal hearing to defend these charges within 60 days after the issuance of this order.'' *Id.* Based on the above, I find that Respondent does not currently have authority under the laws of Arizona to dispense controlled substances.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the CSA, ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Also, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton,* 43 FR 27616 (1978) (''State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.'').

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he engages in professional practice. *See, e.g., Calvin Ramsey,* 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR at 27616.

Moreover, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the [S]tate,'' *Hooper,* 76 FR at 71371 (quoting *Anne Lazar Thorn,* 62 FR 12847, 12848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner has lost his state authority by virtue of the State's use of summary process and the State has yet to provide a hearing to challenge the suspension. *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Thus, it is of no consequence that the Arizona Medical Board summarily suspended Respondent's state medical license. What is consequential is the undisputed fact that Respondent is no longer currently authorized to dispense controlled substances in Arizona, the State in which he is registered.

As for Respondent's CAP, I conclude that there were adequate grounds for denying it. Specifically, Respondent's position in his CAP is that his DEA registration should not be revoked until the conclusion of his appeal of the Arizona Medical Board's decision. As already noted, however, revocation is warranted even where a practitioner has lost his state authority and the State has yet to provide a hearing to challenge the suspension. *See Bourne Pharmacy,* 72 FR at 18274; *Wingfield Drugs,* 52 FR at 27071. Thus, I agree with the Agency's denial of Respondent's CAP.

I will therefore reject Respondent's CAP and order that his registration (and DATA-Waiver number) be revoked.[7]

[5] In his Briefing Order, the ALJ ordered the Government to file evidence to support its allegation that Respondent lacks state authority to handle controlled substances, and any motion for summary disposition on these grounds, on August 3, 2017. Briefing Order at 1. The ALJ also directed Respondent to file his response to any summary disposition motion on August 10, 2017. *Id.* On August 3, 2017, the Government filed its Motion for Summary Disposition, and the Respondent filed his response on August 10, 2017. *See* Government's Motion for Summary Disposition (hereinafter Govt. Mot.); Response to Motion for Summary Disposition (hereinafter Resp. Br.). On August 15, 2017, the ALJ issued his Order granting summary disposition and Recommended Decision. Order Granting Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision (hereinafter, Recommended Decision or R.D.). Neither party filed exceptions to the ALJ's Recommended Decision. Although the ALJ's Recommended Decision did not establish that the ALJ had jurisdiction in this case, I will nonetheless consider the administrative record that he submitted to me in its entirety.

[6] Although the Show Cause Order alleges that Respondent's registration authorizes him to dispense controlled substances ''in Schedules II through V,'' *see* Show Cause Order, at 1, the record establishes that Respondent is not authorized to dispense any schedule II controlled substances. GX 1. In addition, to the extent that the Show Cause Order's statement that Respondent's status ''as a data-waived DW/30 practitioner in Schedules II–V'' suggests that this status authorized Respondent to dispense schedule II controlled substances, that suggestion is incorrect as a matter of law. 21 U.S.C. 823(g)(2)(a) (limiting authority to dispense to ''narcotic drugs in schedule III, IV, or V''); 21 CFR 1301.28(a) (same).

[7] The ALJ received and considered the Government's Motion for Summary Disposition and

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. AR9258434 and DATA-Waiver Identification Number XR9258434, issued to David A. Ruben, M.D., be, and they hereby are, revoked. I further order that any pending application of David A. Ruben to renew or modify the above registration, or any pending application of David A. Ruben for any other registration, be, and it hereby is, denied. This Order is effective immediately.[8]

Dated: March 7, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–05471 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–09–P

the ''Response to Motion for Summary Disposition'' filed by Respondent. In his responsive brief, Respondent argued that ''[u]nder the terms of that [Arizona Medical] Board Order, the suspension was for 60 days beginning on April 6, 2017 until the matter was set for a formal hearing'' before the Board. Resp. Br. at 1. However, as already noted above, the Arizona Medical Board's Order ''summarily suspended'' Respondent ''from prescribing any form of treatment including prescription medications or injections of any kind.'' GX 2, at 7. Thus, I agree with the ALJ that the fact that the Board gave Respondent the right to a formal hearing within 60 days of its April 6, 2017 Order ''does not obviate the fact that the Respondent currently does not possess state authority to handle controlled substances in Arizona,'' the State in which he is registered. R.D. at 5. Accordingly, if the ALJ had the authority to issue his conclusion rejecting Respondent's argument, I would have adopted it, and I would have done so for the same reason.

[8] For the same reasons which led the Arizona Medical Board to revoke Respondent's medical license, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

[OMB Number 1125–NEW]

Agency Information Collection Activities; Proposed eCollection; Comments Requested; New

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: Notice.

SUMMARY: The Department of Justice, Executive Office for Immigration Review, is submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: The Department of Justice encourages public comment and will accept input until May 18, 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 Jean King, General Counsel, Office of the General Counsel, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, telephone: (703) 305–0470.

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 Executive Office for Immigration Review, 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:* New Voluntary Collection.

2. *The Title of the Form/Collection:* Office of the Chief Administrative Hearing Officer E-Filing Portal.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no agency form number for this collection. The applicable component within the Department of Justice is the Office of the Chief Administrative Hearing Officer (OCAHO).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Individuals, Business or other for-profit, and not-for-profit institutions.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 51, 50 minutes per response, 2,550 annual hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* $5,220.53.

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: March 14, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–05532 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–30–P

DEPARTMENT OF JUSTICE

Notice of Proposed Administrative Settlement Agreement Under the Clean Comprehensive Environmental Response, Compensation, and Liability Act

On March, 12, 2018, the Department of Justice formally proposed to enter a Settlement Agreement and Order on Consent for Response Action (''Settlement Agreement'') with the Bunker Hill Mining Corp. (''BHMC''), in connection with BHMC's purchase of property located at the Bunker Hill Mine, south of Kellogg, in the Silver Valley of Shoshone County, Idaho (the ''Mine''), which is located in and part of the ''Non-Populated Areas Operable Unit of the Bunker Hill Superfund Site.'' As described in the Settlement Agreement, BHMC agrees to perform response actions at or in connection with the Mine and to make payments for, and in satisfaction of the liability of Placer Mining Corp. and the Estate of Robert Hopper, Sr., under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'').

Under the proposed Settlement Agreement, BHMC has agreed, as part of the consideration BHMC is paying to purchase the Mine and in satisfaction of the liability of Placer Mining Co. and Robert Hopper, Jr., the current owners of the Mine, to reimburse the United States over 80 percent of its costs incurred in connection with the Bunker Hill Mine property and have agreed to pay for treatment of acid water discharged from the Mine and to otherwise manage Mine water as requested by the Environmental Protection Agency.

The publication of this notice opens a period for public comment on the

Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *In the Matter of: Bunker Hill Superfund Site, Kellogg, Idaho—Settlement Agreement and Order on Consent for Response Action by Bunker Hill Mining Corp.,* D.J. Ref. No. 90–11–3–128/18. All comments must be submitted no later than fourteen (14) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Settlement Agreement may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 31.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–05470 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March, 12, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Idaho in the lawsuit entitled *United States of America* v. *Placer Mining Company, Inc. (dba New Bunker Hill Mining Co.) and Robert Hopper, Jr.,* Civil Action No. 2:04–cv–00126.

The Complaint initiating this matter seeks reimbursement of response costs incurred and to be incurred for response actions taken at or in connection with the release or threatened release of hazardous substances at the Bunker Hill Mine property in Kellogg, Idaho pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607 (CERCLA).

Under the proposed Consent Decree, Defendants have agreed to reimburse the United States over 80 percent of its costs incurred in connection with the Bunker Hill Mine property and have agreed to dismiss, with prejudice, Defendants' claims for damages in a certain Fifth Amendment ''takings'' case pending in the matter captioned *Placer Mining Company, Inc. d/b/a/the New Bunker Hill Mining Co.* v. *United States* in the Court of Federal Claims, Civil Case No. 01–27 L.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Placer Mining Company, Inc. (dba New Bunker Hill Mining Co.) and Robert Hopper, Jr.,* D.J. Ref. No. 90–11–3–128/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $28.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–05469 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0111]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Extension of a Currently Approved Collection; Comments Requested: National Crime Victimization Survey (NCVS)

AGENCY: Bureau of Justice Statistics, Office of Justice Programs, 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** allowing a 60-day comment period. Following publication of the 60-day notice, the Bureau of Justice Statistics received four requests for the survey instrument and communication containing suggestions for revisions to the instrument, which is addressed in Supporting Statement A.

DATES: Comments are encouraged and will be accepted for 30 days until April 18, 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 Jennifer Truman, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW, Washington, DC 20531 (email: *Jennifer.Truman@ojp.usdoj.gov;* telephone: 202–514–5083).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* National Crime Victimization Survey.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form numbers for the questionnaire are NCVS–1 and NCVS–2. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The National Crime Victimization Survey (NCVS) is administered to persons 12 years or older living in sampled households located throughout the United States. The NCVS collects, analyzes, publishes, and disseminates statistics on the criminal victimization in the U.S. BJS plans to publish information from the NCVS in reports and reference it when responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justice statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated annual number of respondents is 130,707. It will take the average interviewed respondent an estimated 25 minutes to respond; the average non-interviewed respondent an estimated 7 minutes to respond; the average follow-up interview is estimated at 15 minutes, and the average follow-up for a non-interview is estimated at 1 minute.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 120,810 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, 3E.405A, Washington, DC 20530.

Dated: March 14, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–05503 Filed 3–16–18; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hazardous Energy Control Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hazardous Energy Control Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before April 18, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201710-1218-005* or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Hazardous Energy Control Standard information collection requirements codified in regulations 29 CFR 1910.147. The Standard specifies several information collection requirements, including those related to documenting energy-control procedure; providing protective materials; and developing, maintaining, and disclosing periodic inspection, training, and communication records. Occupational Safety and Health Act of 1970 sections 6(b)(7) and 8(c) authorize this information collection. *See* U.S.C. 655(b)(7) and 657(c).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0150.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 1, 2017 (82 FR 50689).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments

should mention OMB Control Number 1218–0150. The OMB is particularly interested in comments that:

- 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.

Agency: DOL–OSHA.

Title of Collection: Hazardous Energy Control Standard.

OMB Control Number: 1218–0150.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 754,348.

Total Estimated Number of Responses: 75,072,010.

Total Estimated Annual Time Burden: 2,749,315 hours.

Total Estimated Annual Other Costs Burden: $1,478,686.

Authority: 44 U.S.C. 3507(a)(1)(D).

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2018–05436 Filed 3–16–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0060]

Methylene Chloride Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Methylene Chloride Standard (the Standard).

DATES: Comments must be submitted (postmarked, sent, or received) by May 18, 2018.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0060, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., ET.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2011–0060) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Theda Kenney at the phone number below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Charles McCormick or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The Standard protects workers from the adverse health effects that may result from their exposure to methylene chloride (MC). The requirements in the Standard include worker exposure monitoring, notifying workers of their MC exposures, administering medical examinations to workers, providing examining physicians with specific program and worker information, ensuring that workers receive a copy of their medical examination results, maintaining workers' exposure monitoring and medical examination records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected workers, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency is requesting an adjustment increase in the number of burden hours from 54,393 to 56,276 hours (a total increase of 1,883 hours). The increase is a result of the Agency's estimate, based on updated data, that the number of establishments and workers affected by the Standard has increased. The increase in the number of medical exams, and the increase in the cost of medical exams (from $180 to $196) has resulted in an increase of $539,194 in costs (from $4,733,010 to $5,272,204). Due to lower prices for dosimeters, the total cost for exposure monitoring declined by $1,503,465 (from $14,648,715 to $13,145,250), despite the number of employees being monitored with dosimeters increasing from 51,399 to 52,581.

Type of Review: Extension of a currently approved collection.

Title: Methylene Chloride Standard (29 CFR 1910.1052).

OMB Control Number: 1218–0179.

Affected Public: Business or other for-profits.

Number of Respondents: 82,927.

Frequency of Response: Annually; semi-annually; quarterly; on occasion.

Total Responses: 218,652.

Average Time per Response: Varies from 1 hour for administering a medical examination to 5 minutes (.08 hour) to maintain a worker's medical or exposure record.

Estimated Total Burden Hours: 56,276.

Estimated Cost (Operation and Maintenance): $18,417,454.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2011–0060) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 13, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–05439 Filed 3–16–18; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (18–025)]

Notice of Intent To Grant Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to practice the invention described and claimed in for U.S. Patent Number 8,197,249 entitled ''Fully Premixed Low Emission, High Pressure Multi-Fuel Burner'', which issued June 12, 2012 and is further described by NASA as LEW 17786–1, to Intellihot, Inc., having its principal place of business in Galesburg, Illinois. The fields of use may be limited to gas fired products for heating, ventilation, and air conditioning industry including water heaters, boilers, space heaters, combined heating, cooling and power, heat pumps, roof top units, and furnaces.

DATES: The prospective exclusive license may be granted unless, NASA receives written objections, including evidence and argument no later than April 3, 2018 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than April 3, 2018 will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, MS 142–7, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland, OH 44135. Phone (216) 433–3663. Facsimile (216) 433–6790.

FOR FURTHER INFORMATION CONTACT: Robert Earp, Patent Counsel, Office of Chief Counsel, MS 142–7, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland, OH 44135. Phone (216) 433–3663. Facsimile (216) 433–6790.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR. 404.7.

Information about other NASA inventions available for licensing can be

found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2018–05447 Filed 3–16–18; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2017–026]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of proposed extension request.

SUMMARY: NARA proposes to request an extension from the Office of Management and Budget (OMB) of a currently approved information collection used by registrants or other authorized individuals to request information from or copies of Selective Service System (SSS) records. We invite you to comment on this proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: We must receive written comments on or before May 18, 2018.

ADDRESSES: Send comments to Paperwork Reduction Act Comments (MP), Room 4100, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, fax them to 301–837–0319, or email them to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Tamee Fechhelm by telephone at 301–837–1694 or fax at 301–837–0319 with requests for additional information or copies of the proposed information collection and supporting statement.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for NARA to properly perform its functions; (b) NARA's estimate of the burden of the proposed information collections and its accuracy; (c) ways NARA could enhance the quality, utility, and clarity of the information it collects; (d) ways NARA could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether these collections affects small businesses. We will summarize any comments you submit and include the summary in our request for OMB approval. All comments will become a matter of public record. In this notice, NARA solicits comments concerning the following information collection:

Title: Selective Service System Record Request.

OMB number: 3095–0071.

Agency form numbers: NA Form 13172.

Type of review: Regular.

Affected public: Individuals or households.

Estimated number of respondents: 1,500.

Estimated time per response: 2 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 50.

Abstract: The National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers the Selective Service System (SSS) records. The SSS records contain both classification records and registration cards of registrants born before January 1, 1960. When registrants or other authorized individuals request information from or copies of SSS records they must provide on forms or letters certain information about the registrant and the nature of the request. Requesters use NA Form 13172, Selective Service Record Request, to obtain information from SSS records stored at NARA facilities.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2018–05432 Filed 3–16–18; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Geosciences (1755).

Date and Time: April 25, 2018; 10:00 a.m.–4:00 p.m. EDT, April 26, 2018; 10:00 a.m.–3:00 p.m. EDT.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 (Virtual).

Type of Meeting: Open.

Contact Person: Melissa Lane, National Science Foundation, Room C 8000, 2415 Eisenhower Avenue, Alexandria, Virginia 22314; Telephone: 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight on support for geoscience research and education including atmospheric, geo-space, earth, ocean and polar sciences.

Agenda

Wednesday, April 25, 2018

- Directorate and NSF activities and plans
- Committee Discussion on Public Comments Received on Dynamic Earth Report Update
- Meeting with the NSF Director and COO

Thursday, April 26, 2018

- Division Meetings
- Summary of and Actions from Spring Meeting of AC OPP
- Committee Discussion on Outline for Dynamic Earth Update
- Action Items/Planning for Spring 2018 Meeting

Updates to the agenda and a link for accessing this virtual meeting will be posted on the AC GEO website at: *www.nsf.gov/geo/advisory.jsp.*

Dated: March 14, 2018.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2018–05487 Filed 3–16–18; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–1051; NRC–2018–0055]

Holtec International's HI–STORE Consolidated Interim Storage Facility for Interim Storage of Spent Nuclear Fuel

AGENCY: Nuclear Regulatory Commission.

ACTION: License application; docketing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received a license application from Holtec International (Holtec), by letter dated March 30, 2017, as supplemented on April 13, October 6, December 21, and 22, 2017; and February 22, 2018. By this application, Holtec is requesting authorization to construct and operate the HI–STORE Consolidated Interim Storage (CIS) Facility, in Lea County, New Mexico. If the NRC approves the application and issues a license to Holtec, Holtec intends to store up to 8,680 metric tons uranium (MTU) of commercial spent

nuclear fuel in the HI–STORM UMAX Canister Storage System for a 40-year license term.

DATES: March 19, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0055 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0055. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jose R. Cuadrado, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0606; email: *Jose.Cuadrado@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received an application from Holtec for a specific license pursuant to part 72 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste.'' Holtec is proposing to construct and operate the HI–STORE Consolidated Interim Storage (CIS) Facility on a large parcel of presently unused land owned by the Eddy-Lea Energy Alliance (ELEA), LLC. ELEA was formed in 2006 in accordance with enabling legislation passed in New Mexico and consists of an alliance of the city of Carlsbad, Eddy County, the city of Hobbs, and Lea County. The proposed site for the CIS facility is located in southeastern New Mexico in Lea County, 32 miles east of Carlsbad, New Mexico, and 34 miles west of Hobbs, New Mexico.

Holtec is proposing to construct and operate Phase 1 of the CIS facility within an approximately 1,040 acre parcel. Holtec is currently requesting authorization to possess and store 500 canisters of spent nuclear fuel (SNF) containing up to 8,680 metric tons of uranium (MTUs), which includes spent uranium-based fuel from commercial nuclear reactors, as well as a small quantity of spent mixed-oxide fuel. If the NRC issues the requested license, Holtec expects to subsequently request additional amendments to the initial license to expand the storage capacity of the facility. In its plans, Holtec proposes expanding the facility in 19 subsequent expansion phases, each for an additional 500 canisters, to be completed over the course of 20 years. Ultimately, Holtec anticipates that approximately 10,000 canisters of SNF would be stored at the CIS facility upon completion of 20 phases. Each phase would require NRC review and approval.

According to its application, Holtec intends to only use the HI–STORM UMAX Canister Storage System for storage of spent nuclear fuel canisters at the facility. The HI–STORM UMAX Canister Storage System stores the canister containing SNF entirely below-ground, providing a clear, unobstructed view of the entire CIS facility from any location.

An NRC administrative completeness review found the application complete and acceptable for docketing. The docket number established is 72–1051. The NRC will perform a detailed technical review of the application. Docketing of the application does not preclude the NRC from requesting additional information from the applicant as the review proceeds, nor does it predict whether the NRC will grant or deny the application. Prior to issuing the license, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (AEA), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report. In accordance with 10 CFR part 51, the NRC will also prepare an environmental impact statement for the proposed action. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the NRC intends to hold a public scoping meeting. Detailed information regarding this meeting will be included in a future **Federal Register** notice. Additionally, the NRC will announce in a future **Federal Register** a notice of opportunity for hearing.

II. Availability of Documents

The documents identified in this **Federal Register** notice are accessible to interested persons in ADAMS under the accession numbers identified in the table below.

Title	ADAMS accession No.
Holtec International HI–STORE CIS License Application	ML17115A431
NRC request for supplemental information	ML17191A356 ML17191A478
Holtec letter with schedule for response to NRC request for supplemental information	ML17206A203
Holtec's October 6, 2017, information submittal in response to NRC request for supplemental information	ML17310A21
Holtec's December 21, 2017, information submittal in response to NRC request for supplemental information	ML17362A097
Holtec's December 22, 2017, information submittal in response to NRC request for supplemental information	ML18011A158
Holtec's February 22, 2018, information submittal in response to proprietary information determination	ML18058A617
NRC letter accepting application for review	ML18059A251

Dated at Rockville, Maryland, this 13th day of March 2018.

For the Nuclear Regulatory Commission.

John McKirgan,

Chief, Spent Fuel Licensing Branch, Division of Spent Fuel Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–05438 Filed 3–16–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–223; NRC–2018–0053]

University of Massachusetts at Lowell; University of Massachusetts at Lowell Research Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: License renewal application; opportunity to request a hearing and to petition for leave to intervene; Order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of Facility Operating License No. R–125, which authorizes the University of Massachusetts at Lowell (UML or the licensee) to operate the UML Research Reactor (UMLRR) at a maximum steady-state thermal power of 1.0 megawatt (MW). The UMLRR is a plate-type-fueled research reactor located on the campus of UML, in Lowell, Massachusetts. If approved, the renewed license would authorize the licensee to continue to operate the UMLRR up to a steady-state thermal power of 1.0 MW for an additional 20 years from the date of issuance of the renewed license. Because the license renewal application contains Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI), an included Order imposes procedures to obtain access to SUNSI and SGI for contention preparation.

DATES: A request for a hearing or petition for leave to intervene must be filed by May 18, 2018. Any potential party as defined in Section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI or SGI is necessary to respond to this notice must request document access by March 29, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0053 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0053. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Edward Helvenston, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–4067; email: *Edward.Helvenston@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is considering an application for the renewal of Facility Operating License No. R–125, which authorizes the licensee to operate the UMLRR, located on the campus of the UML, at a maximum steady-state thermal power of 1.0 MW. The renewed license would authorize the licensee to continue to operate the UMLRR up to a steady-state thermal power of 1.0 MW for an additional 20 years from the date of issuance of the renewed license.

By letter dated October 20, 2015, as supplemented by the other letters referenced in Section IV, ''Availability of Documents,'' of this document, the NRC received an application from the licensee filed pursuant to 10 CFR 50.51(a) to renew Facility Operating License No. R–125 for the UMLRR. The application contains SUNSI and SGI.

Based on its initial review of the application, the NRC staff determined that the licensee submitted sufficient information in accordance with 10 CFR 50.33 and 10 CFR 50.34 and that the application is acceptable for docketing. The current Docket No. 50–223 for Facility Operating License No. R–125 will be retained. The docketing of the renewal application does not preclude NRC Staff requests for additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the requested renewed license. Prior to a decision to renew the license, the Commission will make findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations, including the environmental protection regulations in 10 CFR part 51.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person(s) (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure,'' in 10 CFR part 2. Interested person(s) should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21 (first floor), 11555 Rockville Pike, Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise

statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting

authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

IV. Availability of Documents

Documents related to this action, including the license renewal application and other supporting documentation are available to interested persons as indicated.

Document	ADAMS accession No.
University of Massachusetts at Lowell, Submittal of Revision 7 to Emergency Plan, dated May 23, 2013	ML17296B070
University of Massachusetts at Lowell, Submittal of Revision 7 to Physical Security Plan, dated January 13, 2015	ML15015A016
University of Massachusetts at Lowell, Request for Renewal of Facility Operating License No. R–125 and Safety Analysis Report, dated October 20, 2015.	ML16042A015
University of Massachusetts at Lowell, Submittal of Revision 2 to Operator Requalification Program, dated March 16, 2016	ML16076A405
University of Massachusetts at Lowell, Response to Request for Additional Information Regarding the Operator Requalification Program for License Renewal and Submittal of Revision 3 to Operator Requalification Program, dated November 30, 2016.	ML16335A327
University of Massachusetts at Lowell, Response to Request for Additional Information for License Renewal, dated March 31, 2017.	ML17090A348
University of Massachusetts at Lowell, Response to Request for Additional Information Regarding Financial Qualifications for License Renewal, dated July 11, 2017.	ML17192A428
University of Massachusetts at Lowell, Response to Request for Additional Information Regarding the Physical Security Plan for License Renewal and Submittal of Revision 8 to Physical Security Plan, dated August 7, 2017.	ML17222A071
University of Massachusetts at Lowell, Submittal of Revision 9 to Physical Security Plan, dated September 13, 2017	ML17261A211
University of Massachusetts at Lowell, Response to Request for Additional Information for License Renewal, dated January 6, 2018.	ML18006A003
University of Massachusetts at Lowell, Additional Clarifying Information for License Renewal, dated February 1, 2018	ML18032A534

Portions of the license renewal application and its supporting documents contain SUNSI and SGI. These portions will not be available to the public. Any person requesting access to SUNSI or SGI must follow the procedures described in the Order below.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified information (including Sensitive Unclassified Non-Safeguards Information (SUNSI) and Safeguards Information (SGI)). Requirements for access to SGI are primarily set forth in 10 CFR parts 2 and 73. Nothing in this Order is intended to conflict with the SGI regulations.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI or SGI is necessary to respond to this notice may request access to SUNSI or SGI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI or SGI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI, SGI, or both to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,*

respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1);

(3) If the request is for SUNSI, the identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention; and

(4) If the request is for SGI, the identity of each individual who would have access to SGI if the request is granted, including the identity of any expert, consultant, or assistant who will aid the requestor in evaluating the SGI. In addition, the request must contain the following information:

(a) A statement that explains each individual's ''need to know'' the SGI, as required by 10 CFR 73.2 and 10 CFR 73.22(b)(1). Consistent with the definition of ''need to know'' as stated in 10 CFR 73.2, the statement must explain:

(i) Specifically why the requestor believes that the information is necessary to enable the requestor to proffer and/or adjudicate a specific contention in this proceeding;[2] and

(ii) The technical competence (demonstrable knowledge, skill, training or education) of the requestor to effectively utilize the requested SGI to provide the basis and specificity for a proffered contention. The technical competence of a potential party or its counsel may be shown by reliance on a qualified expert, consultant, or assistant who satisfies these criteria.

(b) A completed Form SF–85, ''Questionnaire for Non-Sensitive Positions,'' for each individual who would have access to SGI. The completed Form SF–85 will be used by the Office of Administration to conduct the background check required for access to SGI, as required by 10 CFR part 2, subpart C, and 10 CFR 73.22(b)(2), to determine the requestor's trustworthiness and reliability. For security reasons, Form SF–85 can only be submitted electronically through the electronic questionnaire for investigations processing (e-QIP) website, a secure website that is owned and operated by the Office of Personnel Management. To obtain online access to the form, the requestor should contact the NRC's Office of Administration at 301–415–3710.[3]

(c) A completed Form FD–258 (fingerprint card), signed in original ink, and submitted in accordance with 10 CFR 73.57(d). Copies of Form FD–258 may be obtained by writing the Office of Administrative Services, Mail Services Center, Mail Stop P1–37, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by email to *MAILSVC.Resource@nrc.gov.* The fingerprint card will be used to satisfy the requirements of 10 CFR part 2, subpart C, 10 CFR 73.22(b)(1), and Section 149 of the Atomic Energy Act of 1954, as amended, which mandates that all persons with access to SGI must be fingerprinted for an FBI identification and criminal history records check.

(d) A check or money order payable in the amount of $357.00[4] to the U.S. Nuclear Regulatory Commission for each individual for whom the request for access has been submitted.

(e) If the requestor or any individual(s) who will have access to SGI believes they belong to one or more of the categories of individuals that are exempt from the criminal history records check and background check requirements in 10 CFR 73.59, the requestor should also provide a statement identifying which exemption the requestor is invoking and explaining the requestor's basis for believing that the exemption applies. While processing the request, the Office of Administration, Personnel Security Branch, will make a final determination whether the claimed exemption applies. Alternatively, the requestor may contact the Office of Administration for an evaluation of their exemption status prior to submitting their request. Persons who are exempt from the background check are not required to complete the SF–85 or Form FD–258; however, all other requirements for access to SGI, including the need to know, are still applicable.

Note: Copies of documents and materials required by paragraphs C.(4)(b), (c), and (d) of this Order must be sent to the following address: U.S. Nuclear Regulatory Commission, ATTN: Personnel Security Branch, Mail Stop TWFN–03–B46M, 11555 Rockville Pike, Rockville, MD 20852.

These documents and materials should *not* be included with the request letter to the Office of the Secretary, but the request letter should state that the forms and fees have been submitted as required.

D. To avoid delays in processing requests for access to SGI, the requestor should review all submitted materials for completeness and accuracy (including legibility) before submitting them to the NRC. The NRC will return incomplete packages to the sender without processing.

E. Based on an evaluation of the information submitted under paragraphs C.(3) or C.(4) above, as applicable, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI or need to know the SGI requested.

F. For requests for access to SUNSI, if the NRC staff determines that the requestor satisfies both E.(1) and E.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.[5]

G. For requests for access to SGI, if the NRC staff determines that the requestor has satisfied both E.(1) and E.(2) above, the Office of Administration will then

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI and/or SGI under these procedures should be submitted as described in this paragraph.

[2] Broad SGI requests under these procedures are unlikely to meet the standard for need to know; furthermore, NRC staff redaction of information from requested documents before their release may be appropriate to comport with this requirement. These procedures do not authorize unrestricted disclosure or less scrutiny of a requestor's need to know than ordinarily would be applied in connection with an already-admitted contention or non-adjudicatory access to SGI.

[3] The requestor will be asked to provide his or her full name, social security number, date and place of birth, telephone number, and email address. After providing this information, the requestor usually should be able to obtain access to the online form within one business day.

[4] This fee is subject to change pursuant to the Office of Personnel Management's adjustable billing rates.

[5] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

determine, based upon completion of the background check, whether the proposed recipient is trustworthy and reliable, as required for access to SGI by 10 CFR 73.22(b). If the Office of Administration determines that the individual or individuals are trustworthy and reliable, the NRC will promptly notify the requestor in writing. The notification will provide the names of approved individuals as well as the conditions under which the SGI will be provided. Those conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order [6] by each individual who will be granted access to SGI.

H. *Release and Storage of SGI.* Prior to providing SGI to the requestor, the NRC staff will conduct (as necessary) an inspection to confirm that the recipient's information protection system is sufficient to satisfy the requirements of 10 CFR 73.22. Alternatively, recipients may opt to view SGI at an approved SGI storage location rather than establish their own SGI protection program to meet SGI protection requirements.

I. *Filing of Contentions.* Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI or SGI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI or SGI contentions by that later deadline.

J. *Review of Denials of Access.*

(1) If the request for access to SUNSI or SGI is denied by the NRC staff either after a determination on standing and requisite need, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) Before the Office of Administration makes a final adverse determination regarding the trustworthiness and reliability of the proposed recipient(s) for access to SGI, the Office of Administration, in accordance with 10 CFR 2.336(f)(1)(iii), must provide the proposed recipient(s) any records that were considered in the trustworthiness and reliability determination, including those required to be provided under 10 CFR 73.57(e)(1), so that the proposed recipient(s) have an opportunity to correct or explain the record.

(3) The requestor may challenge the NRC staff's adverse determination with respect to access to SUNSI or with respect to standing or need to know for SGI by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(4) The requestor may challenge the Office of Administration's final adverse determination with respect to trustworthiness and reliability for access to SGI by filing a request for review in accordance with 10 CFR 2.336(f)(1)(iv).

(5) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

K. *Review of Grants of Access.* A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[7]

L. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI or SGI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 13th of March 2018.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

Attachment 1—General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information in This Proceeding

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) and/or Safeguards Information (SGI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding; demonstrating that access should be granted (*e.g.,* showing technical competence for access to SGI); and, for SGI, including application fee for fingerprint/background check.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI and/or SGI (+25 Answers to petition for intervention; +7 requestor/petitioner reply).

[6] Any motion for Protective Order or draft Non-Disclosure Agreement or Affidavit for SGI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 180 days of the deadline for the receipt of the written access request.

[7] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI/SGI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION AND SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows (1) need for SUNSI or (2) need to know for SGI. (For SUNSI, NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). If NRC staff makes the finding of need to know for SGI and likelihood of standing, NRC staff begins background check (including fingerprinting for a criminal history records check), information processing (preparation of redactions or review of redacted documents), and readiness inspections.
25	If NRC staff finds no ''need,'' no ''need to know,'' or no likelihood of standing, the deadline for requestor/petitioner to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
190	(Receipt +180) If NRC staff finds standing, need to know for SGI, and trustworthiness and reliability, deadline for NRC staff to file motion for Protective Order and draft Non-disclosure Affidavit (or to make a determination that the proposed recipient of SGI is not trustworthy or reliable). Note: Before the Office of Administration makes a final adverse determination regarding access to SGI, the proposed recipient must be provided an opportunity to correct or explain information.
205	Deadline for petitioner to seek reversal of a final adverse NRC staff trustworthiness or reliability determination under 10 CFR 2.336(f)(1)(iv).
A	If access granted: Issuance of a decision by a presiding officer or other designated officer on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI and/or SGI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI and/or SGI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI or SGI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI and/or SGI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2018–05446 Filed 3–16–18; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Establishment Information Form, DD 1918, Wage Data Collection Form, DD 1919, Wage Data Collection Continuation Form, DD 1919C, 3206–0036

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0036, Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C). As required by the Paperwork Reduction Act of 1995 as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on November 21, 2017 allowing for a 60-day public comment period. We received one comment which was unrelated to the information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until April 18, 2018. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

The Establishment Information Form, the Wage Data Collection Form, and the Wage Data Collection Continuation Form are wage survey forms developed by OPM for use by the Department of Defense to establish prevailing wage rates for Federal Wage System employees.

Analysis

Agency: Employee Services, Office of Personnel Management.

Title: Establishment Information Form (DD 1918), Wage Data Collection Form (DD 1919), and Wage Data Collection Continuation Form (DD 1919C).

OMB Number: 3260–0036.

Frequency: Annually.

Affected Public: Private Sector Establishments.

Number of Respondents: 21,760.

Estimated Time Per Respondent: 1.5 hours.

Total Burden Hours: 32,640.

Office of Personnel Management.

Jeff T.H. Pon,

Director.

[FR Doc. 2018–05539 Filed 3–16–18; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2012–22]

New Postal Product

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:* March 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:

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I. Introduction

II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's 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).:* CP2012–22; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Parcel Select and Parcel Return Service Contract 3; *Filing Acceptance Date:* March 9, 2018; *Filing Authority:* 39 CFR 3015.50; *Public Representative:* Timothy J. Schwuchow; *Comments Due:* March 20, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–05423 Filed 3–16–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

OMWI Contract Standard for Contractor Workforce Inclusion, SEC File No. S7–02–15, OMB Control No. 3235–0725

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for approval.

Section 342 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act) provided that certain agencies, including the Commission, establish an Office of Minority and Women Inclusion (OMWI).[1] Section 342(c)(2) of the Dodd-Frank Act requires the OMWI Director to include in the Commission's procedures for evaluating contract proposals and hiring service providers a written statement that the contractor shall ensure, to the maximum extent possible, the fair inclusion of women and minorities in the workforce of the contractor and, as applicable, subcontractors. To implement the acquisition-specific requirements of Section 342(c)(2) of the Dodd-Frank Act, the Commission adopted a Contract Standard for Contractor Workforce Inclusion (Contract Standard).

The Contract Standard, which is included in the Commission's solicitations and resulting contracts for services with a dollar value of $100,000 or more, contains a ''collection of information'' within the meaning of the Paperwork Reduction Act. The Contract Standard requires that a Commission contractor provide documentation, upon request from the OMWI Director, to

[1] 12 U.S.C. 5452.

demonstrate that it has made good faith efforts to ensure the fair inclusion of minorities and women in its workforce and, as applicable, to demonstrate its covered subcontractors have made such good faith efforts. The documentation requested may include, but is not limited to: (1) The total number of employees in the contractor's workforce, and the number of employees by race, ethnicity, gender, and job title or EEO–1 job category (*e.g.,* EEO–1 Report(s)); (2) a list of covered subcontract awards under the contract that includes the dollar amount of each subcontract, date of award, and the subcontractor's race, ethnicity, and/or gender ownership status; (3) the contractor's plan to ensure the fair inclusion of minorities and women in its workforce, including outreach efforts; and (4) for each covered subcontractor, the information requested in items 1 and 3 above. The OMWI Director will consider the information submitted in evaluating whether the contractor or subcontractor has complied with its obligations under the Contract Standard.

The information collection is mandatory.

Estimated number of respondents: The Commission estimates that 190 contractors [2] would be subject to the Contract Standard. Approximately 115 of these contractors have 50 or more employees, while 75 have fewer than 50 employees. Since the last approval of this information collection, we adjusted the estimated number of contractors from 170 contractors to 190 contractors based on the number of contractors awarded contracts the last two years that were subject to the Contract Standard. In addition, we adjusted the number of contractors that have 50 or more employees and the number that have fewer than 50 employees to reflect the percentages of contractors meeting these workforce size thresholds among all contractors reviewed by OMWI for compliance with the Contract Standard during the last two years.

Estimate of recordkeeping burden: The information collection under the Contract Standard imposes no new recordkeeping burdens on the estimated 115 contractors that have 50 or more employees. Such contractors are generally subject to recordkeeping and reporting requirements under the regulations implementing Title VII of the Civil Rights Act [3] and Executive Order 11246 (''E.O. 11246'').[4] Their contracts and subcontracts must include the clause implementing E.O. 11246—FAR 52.222–26, Equal Opportunity. In addition, contractors that have 50 or more employees (and a contract or subcontract of $50,000 or more) are required to maintain records on the race, ethnicity, gender, and EEO–1 job category of each employee under Department of Labor regulations implementing E.O. 11246.[5] The regulations implementing E.O. 11246 also require contractors that have 50 or more employees (and a contract or subcontract of $50,000 or more) to demonstrate that they have made good faith efforts to remove identified barriers, expand employment opportunities, and produce measurable results,[6] and to develop and maintain a written program, which describes the policies, practices, and procedures that the contractor uses to ensure that applicants and employees receive equal opportunities for employment and advancement.[7] In lieu of developing a separate plan for workforce inclusion, a contractor may submit its existing written program prescribed by the E.O. 11246 regulations as part of the documentation that demonstrates the contractor's good faith efforts to ensure the fair inclusion of minorities and women in its workforce. Thus, approximately 115 contractors are already required to maintain the information that may be requested under the Contract Standard.

The estimated 75 contractors that employ fewer than 50 employees are required under the regulations implementing E.O. 11246 to maintain records showing the race, ethnicity and gender of each employee. We believe that these contractors also keep job title information during the normal course of business. However, contractors that have fewer than 50 employees may not have the written program prescribed by the E.O. 11246 regulations or similar plan that could be submitted as part of the documentation to demonstrate their good faith efforts to ensure the fair inclusion of women and minorities in their workforces. Accordingly, contractors with fewer than 50 employees may have to develop a plan to ensure workforce inclusion of minorities and women.

In order to estimate the burden on contractors associated with developing a plan for ensuring the inclusion of minorities and women in their workforces, we considered the burden estimates for developing the written programs required under the regulations implementing E.O. 11246.[8] We also revised the estimated time required to develop and update a plan for workforce inclusion of minorities and women since the last approval of this information collection. Based on OMWI's review of the plans and other documentation submitted by contractors with fewer than 50 employees to demonstrate compliance with the Contract Standard, we believe such contractors would require approximately 25 percent of the hours that contractors of similar size spend on developing the written programs required under the E.O. 11246 regulations. Accordingly, we estimate that contractors would spend about 18 hours of employee resources to develop a plan for workforce inclusion of minorities and women. This one-time implementation burden annualized would be 450 hours. After the initial development, we estimate that each contractor with fewer than 50 employees would spend approximately 8 hours each year updating and maintaining its plan for workforce inclusion of minorities and women. The Commission estimates that the annualized recurring burden associated with the information collection would be 375 hours. Thus, the Commission estimates the annual recordkeeping burden for such contractors would total 825 hours.

The Contract Standard requires contractors to maintain information about covered subcontractors' ownership status, workforce demographics, and workforce inclusion plans. Contractors would request this information from their covered subcontractors, who would have an obligation to keep workforce demographic data and maintain plans for workforce inclusion of minorities and women because the Contract Standard is included in their subcontracts. Based on data describing recent Commission subcontractor activity, we believe that few subcontractors will have subcontracts

[2] Unless otherwise specified, the term ''contractors'' refers to contractors and subcontractors.

[3] 42 U.S.C. 2000e, *et seq.*

[4] Executive Order 11246, 30 FR 12,319 (Sept. 24, 1965).

[5] *See* 41 CFR 60–1.7.

[6] *See* 41 CFR 60–2.17(c).

[7] *See* 41 CFR part 60–2.

[8] According to the Supporting Statement for the OFCCP Recordkeeping and Requirements-Supply Service, OMB Control No. 1250–0003 (''Supporting Statement''), it takes approximately 73 burden hours for contractors with 1–100 employees to develop the initial written program required under the regulations implementing E.O. 11246. We understand the quantitative analyses prescribed by the Executive Order regulations at 41 CFR part 60–2 are a time-consuming aspect of the written program development. As there is no requirement to perform these types of quantitative analyses in connection with plan for workforce inclusion of minorities and women under the Contract Standard, we believe the plan for workforce inclusion will take substantially fewer hours to develop. The Supporting Statement is available at *reginfo.gov*.

under Commission service contracts with a dollar value of $100,000 or more.[9] These subcontractors may already be subject to similar recordkeeping requirements as principal contractors. Consequently, we believe that any additional requirements imposed on subcontractors would not significantly add to the burden estimates discussed above.

Estimate of Reporting Burden

With respect to the reporting burden, we estimate that it would take all contractors on average approximately one hour to retrieve and submit to the OMWI Director the documentation specified in the proposed Contract Standard. We expect to request documentation from up to 100 contractors each year and therefore we estimate the total annual reporting burden to be 100 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 13, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05430 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[9] A search of subcontract awards on the usaspending.gov website showed that three subcontractors in FY 2016 and six subcontractors in FY 2017 had subcontracts of $100K or more. *See* data on subcontract awards available at *http://usaspending.gov.*

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Regulation S–K, SEC File No. 270–002, OMB Control No. 3235–0071.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Regulation S–K (17 CFR 229.101 *et seq.*) specifies the non-financial disclosure requirements applicable to registration statements under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*); and registration statements, periodic reports, going-private transaction and tender offer statements, proxy and information statements, and any other documents required to be filed under Sections 12, 13, 14, and 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l,* 78m, 78n, 78o(d)). Regulation S–K is assigned one burden hour for administrative convenience.

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05529 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82867; File No. SR–PEARL–2018–07]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule

March 13, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2018, MIAX PEARL, LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'') to establish certain non-transaction rebates and fees applicable to participants trading options on and/or using services provided by MIAX PEARL.

MIAX PEARL commenced operations as a national securities exchange registered under Section 6 of the Act[3] on February 6, 2017.[4] The Exchange adopted its transaction fees and certain of its non-transaction fees in its filing SR–PEARL–2017–10.[5]

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX PEARL's principal office, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] *See* Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016) (File No. 10–227) (order approving application of MIAX PEARL, LLC for registration as a national securities exchange).

[5] *See* Securities Exchange Act Release No. 80061 (February 17, 2017), 82 FR 11676 (February 24, 2017) (SR–PEARL–2017–10).

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish certain non-transaction rebates and fees applicable to certain market participants trading options on and/or using certain services provided by the Exchange. The Exchange introduced the structure of certain non-transaction rebates and fees in its filing SR–PEARL–2017–10 (without proposing actual fee amounts), but also explicitly waived the assessment of any such fees for the period of time which the Exchange defined as the ''Waiver Period.'' [6] The Exchange now proposes to adopt certain non-transaction fees as described below, and thereby terminate the Waiver Period applicable to such non-transaction fees. In general, the Exchange proposes to amend the Fee Schedule to: Add certain definitions; adopt monthly trading permit fees; adopt port fees; adopt certain market data fees; as well as to adopt a fee waiver for new Members,[7] as applicable to Members and non-Members using certain services provided by MIAX PEARL.

Definitions

The Exchange proposes to amend the ''Definitions'' section of the Fee Schedule to add the following new definitions: ''New Member Non-Transaction Fee Waiver;'' ''Non-Transaction Fees Volume-Based Tiers;'' and ''Monthly Volume Credit'' which are applicable to the assessment of certain non-transaction rebates and fees.

''New Member Non-Transaction Fee Waiver'' has the meaning described below under ''New Member Non-Transaction Fee Waiver.''

''Non-Transaction Fees Volume-Based Tiers'' means the tier structure that is applicable to determine certain non-transaction fees, including Monthly Trading Permit Fees and Full Service MEO Port Fees. The monthly volume thresholds associated with each Tier shall be calculated as the total volume executed by a Member and its Affiliates [8] on the Exchange across all origin types, not including Excluded Contracts,[9] as compared to the TCV [10] in all MIAX PEARL-listed options as set forth below:

Tier	Total volume by member as a percentage of MIAX PEARL-listed TCV
1	0.00% – 0.30%.
2	Above 0.30% – 0.60%.
3	Above 0.60%.

''Monthly Volume Credit'' means a credit assessable to a Member whose executed Priority Customer [11] volume along with that of its Affiliates, not including Excluded Contracts, is at least 0.30% of MIAX PEARL-listed TCV, as set forth below:

Type of member connection	Monthly Volume Credit
Member that connects via the FIX Interface	$250
Member that connects via the MEO Interface *	1,000

* If a Member connects via both the MEO Interface and FIX Interface, and qualifies for the Monthly Volume Credit based upon its Priority Customer Volume, the greater Monthly Volume Credit shall apply to such Member. The Monthly Volume Credit is a single, once-per-month credit towards the aggregate monthly total of non-transaction fees assessable to a Member.

The Exchange proposes the Monthly Volume Credit to be a single, once-per-month credit towards the aggregate monthly total of non-transaction fees assessable to a Member. If a Member connects via both the MEO Interface and FIX Interface, and qualifies for the Monthly Volume Credit based upon its Priority Customer Volume, the greater Monthly Volume Credit shall apply to such Member.

Monthly Trading Permit Fees

The Exchange previously introduced the structure of Trading Permit fees (but without proposing the actual fee amounts), but also explicitly waived the assessment of any such fees for the Waiver Period. Trading Permits are issued to Members who are either Electronic Exchange Members (''EEMs'') or Market Makers.[12] MIAX PEARL now proposes to assess fees for such Trading Permits. Members issued Trading Permits during a calendar month will be assessed monthly Trading Permit Fees. The Exchange notes that the Exchange's affiliate, Miami International Securities Exchange, LLC (''MIAX Options''), charges trading permit fees as well to its members which are based upon the

[6] ''Waiver Period'' means, for each applicable fee, the period of time from the initial effective date of the MIAX PEARL Fee Schedule until such time that the Exchange has an effective fee filing establishing the applicable fee. The Exchange will issue a Regulatory Circular announcing the establishment of an applicable fee that was subject to a Waiver Period at least fifteen (15) days prior to the termination of the Waiver Period and effective date of any such applicable fee. *See* the Definitions Section of the Fee Schedule.

[7] ''Member'' means an individual or organization that is registered with the Exchange pursuant to Chapter II of the Exchange Rules for purposes of trading on the Exchange as an ''Electronic Exchange Member'' or ''Market Maker.'' Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[8] ''Affiliate'' means (i) an affiliate of a Member of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, or (ii) the Appointed Market Maker of an Appointed EEM (or, conversely, the Appointed EEM of an Appointed Market Maker). An ''Appointed Market Maker'' is a MIAX PEARL Market Maker (who does not otherwise have a corporate affiliation based upon common ownership with an EEM) that has been appointed by an EEM and an ''Appointed EEM'' is an EEM (who does not otherwise have a corporate affiliation based upon common ownership with a MIAX PEARL Market Maker) that has been appointed by a MIAX PEARL Market Maker, pursuant to the process described in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[9] ''Excluded Contracts'' means any contracts routed to an away market for execution. *See* the Definitions Section of the Fee Schedule.

[10] ''TCV'' means total consolidated volume calculated as the total national volume in those classes listed on MIAX PEARL for the month for which the fees apply, excluding consolidated volume executed during the period time in which the Exchange experiences an ''Exchange System Disruption'' (solely in the option classes of the affected Matching Engine (as defined below)). The term Exchange System Disruption, which is defined in the Definitions section of the Fee Schedule, means an outage of a Matching Engine or collective Matching Engines for a period of two consecutive hours or more, during trading hours. The term Matching Engine, which is also defined in the Definitions section of the Fee Schedule, is a part of the MIAX PEARL electronic system that processes options orders and trades on a symbol-by-symbol basis. Some Matching Engines will process option classes with multiple root symbols, and other Matching Engines may be dedicated to one single option root symbol (for example, options on SPY may be processed by one single Matching Engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated Matching Engine. A particular root symbol may not be assigned to multiple Matching Engines. The Exchange notes that the term ''Exchange System Disruption'' and its meaning have no applicability outside of the Fee Schedule, as it is used solely for purposes of calculating volume for the threshold tiers in the Fee Schedule. *See* the Definitions Section of the Fee Schedule.

[11] ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* Exchange Rule 100, including Interpretations and Policies .01.

[12] ''Market Maker'' means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange. *See* Exchange Rule 100.

number of assignments of option classes or the percentage of volume in option classes.[13] However, the Exchange's proposed structure for its Trading Permit fees is not identical [sic] the structure of MIAX Options since the market model of the Exchange is not identical to the market model of MIAX Options. The Exchange operates a price time, order-driven marketplace. MIAX Options operates a traditional, pro-rata, quote-driven marketplace, with market makers having affirmative quoting obligations in their assigned classes. However, while the market models are not identical, the Exchange's proposed fee structure shares a similar characteristic with the structure of MIAX Options, wherein both generally provide that, the more active user the Member (*i.e.,* the greater number/greater national ADV of classes assigned to quote), the higher the Trading Permit fee.

The Exchange proposes to charge its Members Trading Permit fees which are based upon the monthly total volume executed by the Member and its Affiliates on the Exchange across all origin types, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL-listed options. Specifically, the Exchange proposes to adopt a tier-based fee structure based upon the volume-based tiers detailed in the proposed definition of ''Non-Transaction Fees Volume-Based Tiers'' described above.

The Exchange proposes to charge such Trading Permit fees based upon the type of interface used by the Member to connect to the Exchange—the FIX Interface [14] and/or the MEO Interface.[15] Any Member (whether EEM or Market Maker) can select either type of interface (either FIX Interface or MEO Interface). Each Member who uses the FIX Interface to connect to the System [16] will be assessed Trading Permit fees according to the volume-based tier that it achieves along with that of its Affiliates. Specifically, Members who use the FIX Interface will be assessed the following Trading Permit fees each month: (i) If its volume falls within the parameters of Tier 1 of the Non-Transaction Fees Volume-Based Tiers, or volume up to 0.30%, $250, (ii) if its volume falls within the parameters of Tier 2 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.30% up to 0.60%, $350, and (iii) if its volume falls with the parameters of Tier 3 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.60%, $450.

Each Member who uses the MEO Interface to connect to the System will be assessed Trading Permit fees according to the volume-based tier thresholds that it achieves along with that of its Affiliates. Specifically, Members who use the MEO Interface will be assessed the following Trading Permit fees each month: (i) If its volume falls within the parameters of Tier 1 of the Non-Transaction Fees Volume-Based Tiers, or volume up to 0.30%, $300, (ii) if its volume falls within the parameters of Tier 2 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.30% up to 0.60%, $400, and (iii) if its volume falls with the parameters of Tier 3 of the Non-Transaction Fees Volume-Based Tiers, or volume above 0.60%, $500. Members who use the MEO Interface may also connect to the System through the FIX Interface as well, and vice versa. The Exchange notes that the Trading Permit fees for Members who connect through the MEO Interface are higher than the Trading Permit fees for Members who connect through the FIX Interface, since the FIX Interface utilizes less capacity and resources of the Exchange. The MEO Interface offers lower latency and higher throughput, which utilizes greater capacity and resources of the Exchange, and is typically a requirement for market makers. The Fix Interface offers lower bandwidth requirements and an industry-wide uniform message format, which is typically favored by EEMs. Both EEMs and Market Makers may connect to the Exchange using either interface.

The Exchange notes that other exchanges assess their membership fees at different rates based upon a member's participation on that exchange.[17]

The Exchange proposes that Members who use the MEO Interface and who also use the FIX Interface will be assessed the rates for both types of Trading Permits set forth above but will receive a $100 monthly credit towards the Trading Permit fees applicable to such Member for MEO Interface use. For example, a Member who reaches Tier 3 in the Non-Transaction fees Volume-Based Tiers, and who connects via a FIX interface and a MEO Interface, would be assessed Trading Permit fees of $450 for FIX Interface and $500 for MEO Interface. Since they connect via both interfaces, they will also receive a $100 monthly credit for total cost of $850 ($450 + $500 − $100). The monthly credit will not exceed the Trading Permit fees.

Below is the proposed fee table for Trading Permit fees:

Type of Trading Permit	Monthly MIAX PEARL Trading Permit fee
Member that connects via the FIX Interface.	Tier 1 $250. Tier 2 $350. Tier 3 $450.
Member that connects via the MEO Interface*.	Tier 1 $300. Tier 2 $400. Tier 3 $500.

* Members who connect via the MEO Interface and that also connect via the FIX Interface will be assessed the rates for both types of Trading Permits set forth above, but will receive a $100 credit towards the Trading Permit Fees set forth above for MEO Interface use.

Port Fees

MIAX PEARL proposes to assess fees for access and services used by Members via connections known as ''Ports''. MIAX PEARL provides five (5) Port types, including (i) the Financial Information Exchange (''FIX'') Port, which allows Members to electronically send orders in all products traded on the Exchange; (ii) the MIAX Express Network (''MEO'') Port, which allows EEMs and Market Makers to submit electronic orders in all products to the Exchange; (iii) the Clearing Trade Drop (''CTD'') Port, which provides real-time per-trade clearing information to the participants on MIAX PEARL and to the participants' respective clearing firms; (iv) FIX Drop Copy (''FXD'') Port, which provides a copy of real-time trade execution, correction, and cancellation information through a FIX Port to any number of FIX Ports designated by a Member to receive such messages; and (v) the MEO Purge Port, which is used as a dedicated port for sending purge messages to the Exchange.

MIAX PEARL has Primary and Secondary Facilities and a Disaster Recovery Facility. Each type of Port provides access to all three facilities for a single fee. The Exchange notes that, unless otherwise specifically set forth in the Fee Schedule, the Port fees include the information communicated through the Port. That is, unless otherwise

[13] *See* the MIAX Options Fee Schedule, Section 3)b).

[14] ''FIX Interface'' means the Financial Information Exchange interface for certain order types as set forth in Exchange Rule 516. *See* Exchange Rule 100. *See* the Definitions Section of the Fee Schedule.

[15] ''MEO Interface'' means a binary order interface for certain order types as set forth in Rule 516 into the MIAX PEARL System. *See* Exchange Rule 100. *See* the Definitions Section of the Fee Schedule.

[16] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[17] Cboe BZX Options Exchange (''BZX Options'') assesses the Participant Fee, which is a membership fee, according to a member's ADV. *See* Cboe BZX Options Exchange Fee Schedule under ''Membership Fees''. The Participant Fee is $500 if the member ADV is under 5000 and $1,000 if the member ADV is equal to or over 5000. *Id.*

specifically set forth in the Fee Schedule, there is no additional charge for the information that is communicated through the Port apart from what the user is assessed for each Port.[18]

The Exchange currently offers different options of MEO Ports depending on the services required by the Member, including a Full Service MEO Port-Bulk,[19] a Full Service MEO Port-Single,[20] and a Limited Service MEO Port.[21] A Member may be allocated two (2) Full-Service MEO Ports of either type, Bulk and/or Single, per Matching Engine, and up to eight (8) Limited Service MEO Ports, per Matching Engine. The two (2) Full-Service MEO Ports that may be allocated per Matching Engine to a Member currently may consist of: (a) Two (2) Full Service MEO Ports—Bulk; or (b) two (2) Full Service MEO Ports—Single. The Exchange proposes to add a third option, option (c), which permits a Member to have one (1) Full Service MEO Port—Bulk, and one (1) Full Service MEO Port—Single. If a Member selects option (c), the Exchange will assess the rates applicable to Full Service MEO Port—Bulk in the Fee Schedule, described below. The Exchange proposes to add option (c) in order to provide Members greater flexibility and granularity in their available Port connection alternatives.

MIAX PEARL proposes to assess Members Full Service MEO Port Fees, either for a Full Service MEO Port—Bulk and/or for a Full Service MEO Port—Single, based upon the monthly total volume executed by a Member and its Affiliates on the Exchange across all origin types, not including Excluded Contracts, as compared to the TCV in all MIAX PEARL-listed options. Specifically, the Exchange proposes to adopt a tier-based fee structure based upon the volume-based tiers detailed in the proposed definition of ''Non-Transaction Fees Volume-Based Tiers'' described above. MIAX PEARL proposes to assess these and other monthly Port fees on Members in each month the market participant is credentialed to use a Port in the production environment. MIAX PEARL proposes the following Monthly Port Fees table:

Type of Port	Monthly Port Fees includes connectivity to the primary, secondary and disaster recovery data centers
FIX Port ^	Per Port: 1st $275, 2nd to 5th $175, 6th or more $75.
Full Service MEO Port—Bulk *	Tier 1 $3,000. Tier 2 $4,500. Tier 3 $5,000.
Full Service MEO Port—Single *	Tier 1 $2,000. Tier 2 $3,375. Tier 3 $3,750.
Limited Service MEO Port **	1st to 2nd $0, 3rd to 4th $200, 5th to 6th $300, 7th to 8th $400.
MEO Purge Port ***	$750.
CTD Port ^	Per Port: $450.
FXD Port ^	Per Port: $250.

* The rates set forth above for Full Service MEO Ports, both Bulk and/or Single, entitle a Member to two (2) such Ports for each Matching Engine for a single port fee. If a Member selects at least one Full Service MEO Port—Bulk as part of their two (2) Ports, *i.e.* option (c) described below, the rates applicable to Full Service MEO Port—Bulk set forth above apply.

** Each Limited Service MEO Port fee entitles a Member to one (1) such port for each Matching Engine. For example, the purchase of 4 Limited Service MEO Ports will allow the Member to access 4 ports per Matching Engine.

*** The MEO Purge Port fee entitles a Member to two (2) such ports for each Matching Engine for a single port fee.

^ Each port will have access to all Matching Engines.

Other exchanges, including MIAX Options, charge a fee for similar services to Members.[22] The Exchange's proposed structure for some of its Port fees is similar to the structure of MIAX Options, subject to a few differences as discussed below. First, the Exchange proposes to have two primary types of Full Service MEO Port Fees (Bulk and Single), whereas MIAX Options only has one type of full service port fee (MEI Port Fee). Second, MIAX Options charges for its MEI port fees based on the options class assignments, or as measured by the national volume. Since the market model of the Exchange is not identical to the market model of MIAX Options, the Exchange therefore proposes to assess its MEO Port fees in a different manner than is assessed by MIAX Options for its MEI Port fees. The Exchange operates a price time, order-driven marketplace. MIAX Options operates a traditional, pro-rata, quote-driven marketplace, with market makers having affirmative quoting obligations in their assigned classes. However, while the market modes [sic] are not identical, the Exchange's proposed structure shares a similar characteristic with the structure of MIAX Options wherein both generally provide that, the more active user the Member (*i.e.,* the greater number/greater national ADV of classes assigned to quote), the higher the Port fee. Third, the amount of the CTD Port fee assessed by MIAX Options is based on the per executed contract side volume of the MIAX Options member. The Exchange proposes to assess its CTD Port fee as a monthly per Port fee, not tied to per executed contract side volume of the Member. The CTD fee structure is the same structure in place at Nasdaq PHLX with respect to its Clearing Trade Interface (''CTI'') port fees.[23] Finally, the amount of the Fix Drop Copy Port fee assessed by MIAX Options, which is a similar fee to the FXD Port fee, is a flat monthly fee whereas the Exchange proposes that the FXD Port fee is per Port like it is proposing to charge for the MEO Purge Ports and CTD Ports and not a flat fee.

Finally, the Exchange proposes to no longer offer Ports to non-Members. There are no current non-Members that connect to the Exchange via Ports, and, based on the Exchange's market model, it does not envision that non-Members

[18] One such example of an additional charge is a charge for certain fee-liable market data feed products to which the Member subscribes.

[19] ''Full Service MEO Port—Bulk'' means an MEO port that supports all MEO input message types and binary bulk order entry. *See* the Definitions Section of the Fee Schedule.

[20] ''Full Service MEO Port—Single'' means an MEO port that supports all MEO input message types and binary order entry on a single order-by-order basis, but not bulk orders. *See* the Definitions Section of the Fee Schedule.

[21] ''Limited Service MEO Port'' means an MEO port that supports all MEO input message types, but does not support bulk order entry and only supports limited order types, as specified by the Exchange via Regulatory Circular. *See* the Definitions Section of the Fee Schedule.

[22] *See* Nasdaq Phlx LLC (''Phlx'') Fee Schedule, Section VII ''Other Member Fees'', B ''Port Fees''.

[23] *Id.*

would require connectivity to the Exchange via Ports in the future. Accordingly, the Exchange proposes to remove all references to non-Members from Section 5)d) (Port Fees) of the Fee Schedule.

Market Data Fees

The Exchange proposes to assess fees for its market data products, MIAX PEARL Top of Market (''ToM'') and MIAX PEARL Liquidity Feed (''PLF''). A more detailed description of the ToM and PLF products can be found in the Market Data Product Filing.[24] To summarize, ToM provides market participants with a direct data feed that includes the Exchange's best bid and offer, with aggregate size, and last sale information, based on displayable order and quoting interest on the Exchange. The ToM data feed includes data that is identical to the data sent to the processor for the Options Price Reporting Authority (''OPRA''). ToM also contains a feature that provides the number of Priority Customer contracts that are included in the size associated with the Exchange's best bid and offer.

PLF is a real-time full order book data feed that provides information for orders on the MIAX PEARL order book. PLF provides real-time information to enable users to keep track of the simple order book for all symbols listed on MIAX PEARL. PLF provides the following real-time data to its users with respect to each order for the entire order book: Origin, limit price, side, size, and time-in-force (*e.g.,* day, GTC). It is a compilation of data for orders residing on the Exchange's order book for options traded on the Exchange that the Exchange provides through a real-time multi-cast data feed. The Exchange believes the PLF is a valuable tool that subscribers can use to gain comprehensive insight into the limit order book in a particular option.

The Exchange proposes to charge monthly fees to Distributors of the ToM and/or PLF market data products. MIAX PEARL will assess market data fees applicable to the market data products to Internal and External Distributors in each month the Distributor is credentialed to use the applicable market data product in the production environment. A ''Distributor'' of MIAX PEARL data is any entity that receives a feed or file of data either directly from MIAX PEARL or indirectly through another entity and then distributes it either internally (within that entity) or externally (outside that entity). All Distributors are required to execute a MIAX PEARL Distributor Agreement. Market data fees for ToM and PLF will be reduced for new Distributors for the first month during which they subscribe to the applicable market data product, based on the number of trading days that have been held during the month prior to the date on which they have been credentialed to use the applicable market data product in the production environment. Such new Distributors will be assessed a pro-rata percentage of the fees described above, which is the percentage of the number of trading days remaining in the affected calendar month as of the date on which they have been credentialed to use the applicable market data product in the production environment, divided by the total number of trading days in the affected calendar month.

Specifically, the Exchange proposes to assess Internal Distributors $500 per month and External Distributors $750 per month for the ToM market data feed. The Exchange additionally proposes to assess Internal Distributors $1,250 per month and External Distributors $1,500 per month for the PLF market data feed. The Exchange notes that its data feed prices are generally lower than most other options exchanges' data feed prices for their comparable data feed products.[25]

New Member Fee Waiver

The Exchange proposes to waive the assessment of the foregoing non-transaction fees to a new Member of the Exchange for the first calendar month during which they are approved as a Member and are credentialed to use the System in the production environment, and for the two (2) subsequent calendar months thereafter. The Exchange proposes to define this waiver as the ''New Member Non-Transaction Fee Waiver'' and to add it to the Definitions section of the Fee Schedule accordingly. In the first month, certain of such Members' non-transaction fees specified by the Exchange will not be assessed and thereby waived for the trading days remaining in such month after the date that the Member was accepted by the Exchange. Then the specified non-transaction fees for the following two (2) calendar months will also be waived by the Exchange for the new Member. For example, if Member A is approved as a Member and credentialed to use the Exchange's System in the production environment on April 2, 2018, Member A will not be assessed any Trading Permit, Port, or Market Data fees for the remaining days in April, and will not be assessed any such fees for the calendar months of May and June of 2018. For the avoidance of doubt, a ''new Member'' shall mean any Member who has not previously been approved by the Exchange and credentialed to use the Exchange's System in the production environment. The Exchange believes that this fee waiver will provide incentive for prospective applicants to apply for membership, and may consequently result in increasing potential order flow and liquidity for the Exchange. The Exchange will submit a rule filing with the Commission prior to terminating the Exchange's waiver of such fees assessable to new Members.

The proposed rule changes will become operative March 1, 2018. Except as set forth above, all other fees of the Exchange remain as set forth in the Fee Schedule.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[26] in general, and furthers the objectives of Section 6(b)(4) of the Act[27] in particular, in that it is an equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

Definitions

The Exchange believes that the proposed new definition ''New Member Non-Transaction Fee Waiver'' is consistent with Section 6(b)(4) of the Act in that it is fair, equitable and not unreasonably discriminatory and should improve market quality for the Exchange's market participants. The definition applies equally to all potential Members and is intended to add transparency to the Exchange's marketplace by clarifying how the waiver of certain specified non-transaction fees will apply to new Members.

The Exchange believes that the proposed new definition ''New Member Non-Transaction Fee Waiver'' is

[24] *See* Securities Exchange Act Release No. 79913 (February 1, 2017), 82 FR 9617 (February 7, 2017) (SR–PEARL–2017–01).

[25] *See* NASDAQ Phlx Pricing Schedule, Section IX, Proprietary Data Feed Fees.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(4) and (5).

consistent with Section 6(5) of the Act in that it promotes equitable access to the Exchange for all market participants. To the extent that new Members are encouraged to apply to the Exchange as a result of the waiver of certain specified non-transaction fees for a limited period of time, the resulting increased volume and liquidity from such new Members will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange believes that the proposed new definition ''Non-Transaction Fees Volume-Based Tiers'' and the associated volume-based tier structure applicable to certain specified non-transaction fees is consistent with Section 6(b)(4) of the Act in that it is fair, equitable and not unreasonably discriminatory and should improve market quality for the Exchange's market participants. The proposed tier structure is fair and equitable and not unreasonably discriminatory because the volume calculations and thresholds are applied equally to all MIAX PEARL Members. All similarly situated MIAX PEARL Members are subject to the volume thresholds, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed new definition ''Non-Transaction Fees Volume-Based Tiers'' and the associated volume-based tier structure applicable to certain non-transaction fees is consistent with Section 6(b)(5) of the Act in that it promotes equitable access to the Exchange for all market participants. To the extent that Member volume is increased by the proposal, the resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange believes that by determining certain fees upon volume will permit Member firms to have the same access to the Exchange but pay fees which are proportionate to their usage of the Exchange. The fees based upon the same volume threshold will also be assessed to Members on an equal basis since they are assessed based upon the same volume and access type provided. The specific volume thresholds of the ''Non-Transaction Fees Volume-Based Tiers'' were set based upon business determinations and an analysis of current volume levels. The Exchange believes that the proposed new definition of ''Non-Transaction Fees Volume-Based Tiers'' and the associated volume-based tier structure applicable to certain non-transaction fees should provide incentives for market participants to join and trade on the Exchange.

The Exchange believes that the proposed new definition ''Monthly Volume Credit'' and the associated monthly credit for Priority Customer volume applicable to certain non-transaction fees is fair, equitable and not unreasonably discriminatory, because it applies equally to all Members. The proposed volume credit for Priority Customer orders is reasonably designed because it will encourage Members to send increased Priority Customer order flow to the Exchange in order to receive the applicable monthly credit. The Exchange thus believes that the proposed new credit should improve market quality for all market participants by providing more execution opportunities. All Members who qualify will receive the same credit, or the greater of credits for Members who use both FIX and MEO, for Priority Customer volume according to the interface that they select to use to connect to the Exchange.

The Exchange believes that the proposed new definition ''Monthly Volume Credit'' and the associated monthly credit for Priority Customer volume is consistent with Section 6(b)(5) of the Act and it is not discriminatory since it is available to all Members who transact Priority Customer volume at the specified levels. To the extent that MIAX PEARL Priority Customer volume is increased by the proposal, market participants may increasingly compete for the opportunity to trade on the Exchange including sending more orders that are narrower and larger-sized. The resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

Monthly Trading Permit Fees

The Exchange believes that the assessment of Trading Permit fees is reasonable, equitable, and not unfairly discriminatory. The assessment of Trading Permit fees is done by the Exchange's affiliate, MIAX Options, and is commonly done by other exchanges as described in the Purpose section above. The Exchange also believes that the proposed tier structure is fair and equitable and not unreasonably discriminatory because the volume calculations and thresholds are applied equally to all MIAX PEARL Members. All similarly situated MIAX PEARL Members are subject to the volume thresholds, and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed Trading Permit Fees are consistent with Section 6(b)(5) of the Act in that they promote equitable access to the Exchange for all market participants. To the extent that Member volume is increased by the proposal, the resulting increased volume and liquidity will benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The specific volume thresholds of the Trading Permit Fees were set based upon business determinations and an analysis of current volume levels. The Exchange believes that by basing certain fees upon volume, this will permit Member firms to have the same access to the Exchange but pay fees which are proportionate to their usage of the Exchange. The same fees based upon the same volume will also be assessed to Members on an equal basis since they are assessed based upon the same volume of order flow provided.

Port Fees

MIAX PEARL believes it is reasonable, equitable and not unfairly discriminatory to assess Port fees on Members who use such services. In particular, the Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to assess Port fees on Members since the Ports enable Members to submit orders and to receive information regarding transactions. Specifically, the FIX Port and the various MEO Ports enable Members to submit orders electronically to the Exchange for processing. The Exchange believes that its proposed fees are reasonable in that other exchanges offer similar ports with similar services and charge fees for the use of such ports, including MIAX Options.

The Exchange believes that its fees for Ports are reasonable, equitable, and not unfairly discriminatory in that they apply to all Members using the following ports: FIX, MEO, MEO Purge, CTD or FXD equally and allow the Exchange to recover operational and administrative costs in developing and maintaining such services. The Exchange believes that assessing a per Port fee for some Ports while assessing a flat fee, which in the case of Full Service MEO Ports is tiered according to the Member's volume, for other Ports is reasonable and not discriminatory since different Ports provide different information and utility to Members. For example, the MEO Interface offers greater connectivity, lower latency and higher throughput which is beneficial to Market Maker activities and while both EEMs and Market Makers may connect through either the FIX or MEO

Interfaces, Market Makers generally elect to connect through the MEO Interface for the greater benefits of its connectivity which requires a MEO Port. The Exchange expends considerable resources to provide Port access to its Members and certain Ports are more costly to provide such as the Full Service MEO Port—Bulk. The Exchange must assess fees in order to recoup the costs involved with providing the appropriate access required by the Member. The Exchange believes that its proposed fees are reasonable in that other exchanges charge fees for similar services, including MIAX Options, subject to the differences discussed above, which the Exchange believes are reasonable given the different market structure between the Exchange and MIAX Options.

The Exchange also believes the proposed Port Fees are consistent with Section 6(b)(5) of the Act are non-discriminatory because they will apply uniformly to all Members. The use and choice of Ports are completely voluntary and no user is required, nor are the Members under any regulatory obligation, to utilize them. All Members have the option to select any connectivity option, and fees, when charged, are charged uniformly for the services offered by the Exchange.

The Exchange believes that by basing certain fees upon volume, this will permit Member firms to have the same access to the Exchange but pay fees which are proportionate to their usage of the Exchange. The same fees based upon the same volume will also be assessed to Members on an equal basis since they are assessed based upon the same volume and access type provided.

Market Data Fees

The Exchange believes that its proposal to assess Market Data Fees is consistent with the provisions of Section 6(b)(4) of the Act in that it provides an equitable allocation of reasonable fees among distributors of ToM and PLF, because all Distributors in each of the respective category of Distributor (*i.e.,* Internal and External) will be assessed the same fees as other Distributors in their category for the applicable market data product.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[28]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

In July, 2010, Congress adopted H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''due, fee or other charge imposed by the self-regulatory organization.'' As a result, all SRO rule proposals establishing or changing dues, fees or other charges are immediately effective upon filing regardless of whether such dues, fees or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Act to read, in pertinent part, ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved.''

The Exchange believes that these amendments to Section 19 of the Act reflect Congress's intent to allow the Commission to rely upon the forces of competition to ensure that fees for market data are reasonable and equitably allocated. Although Section 19(b) had formerly authorized immediate effectiveness for a ''due, fee or other charge imposed by the self-regulatory organization,'' the Commission adopted a policy and subsequently a rule stating that fees for data and other products available to persons that are not members of the self-regulatory organization must be approved by the Commission after first being published for comment. At the time, the Commission supported the adoption of the policy and the rule by pointing out that unlike members, whose representation in self-regulatory organization governance was mandated by the Act, non-members should be given the opportunity to comment on fees before being required to pay them, and that the Commission should specifically approve all such fees. MIAX PEARL believes that the amendment to Section 19 reflects Congress's conclusion that the evolution of self-regulatory organization governance and competitive market structure have rendered the Commission's prior policy on non-member fees obsolete. Specifically, many exchanges have evolved from member-owned, not-for-profit corporations into for-profit, investor-owned corporations (or subsidiaries of investor-owned corporations). Accordingly, exchanges no longer have narrow incentives to manage their affairs for the exclusive benefit of their members, but rather have incentives to maximize the appeal of their products to all customers, whether members or non-members, so as to broaden distribution and grow revenues. Moreover, the Exchange believes that the change also reflects an endorsement of the Commission's determinations that reliance on competitive markets is an appropriate means to ensure equitable and reasonable prices. Simply put, the change reflects a presumption that all fee changes should be permitted to take effect immediately, since the level of all fees are constrained by competitive forces. The Exchange therefore believes that the assessment of fees for the use of ToM and PLF is proper for non-member Distributors.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* No. 09–1042 (DC Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data:

[28] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' [29]

The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including Market Data Fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

MIAX PEARL believes that the assessment of the proposed Market Data Fees for ToM and PLF is fair and equitable in accordance with Section 6(b)(4) of the Act, and not unreasonably discriminatory in accordance with Section 6(b)(5) of the Act. As described above, Market Data Fees are assessed by other exchanges, including MIAX Options.[30] The Exchange notes that proposed Market Data Fees for ToM are considerably lower than those assessed for a similar MIAX Options market data product but believes that a lower ToM Market Data Fee is fair and reasonable given the recent entrance of MIAX PEARL.

Moreover, the decision as to whether or not to subscribe to ToM or PLF is entirely optional to all parties. Potential subscribers are not required to purchase the ToM or PLF market data feed, and MIAX PEARL is not required to make the ToM or PLF market data feed available without a fee. Subscribers can discontinue their use at any time and for any reason, including due to their assessment of the reasonableness of fees charged. The allocation of fees among subscribers is fair and reasonable because, if the market deems the proposed fees to be unfair or inequitable, firms can diminish or discontinue their use of this data.

New Member Non-Transaction Fee Waiver

MIAX PEARL believes that the New Member Non-Transaction Fee Waiver is consistent with Section 6(4) of the Act in that it is fair, reasonable and equitable and it is consistent with Section 6(5) of the Act in that it is not unreasonably discriminatory to waive the non-transaction fees assessable to new Members who are approved by the Exchange and credentialed to use the System in the production environment for a limited period since the waiver of such fees provides incentives to interested applicants to apply for MIAX PEARL membership. This in turn provides MIAX PEARL with potential new order flow and liquidity providers as it continues to grow its marketplace. The waiver will apply equally to new Members for the specified limited period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must establish fees that are competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fees in the MIAX PEARL Fee Schedule appropriately reflect this competitive environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX PEARL does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Unilateral action by MIAX PEARL in the assessment of certain non-transaction fees for services provided to its Members and others using its facilities will not have an impact on competition. As a more recent entrant in the already highly competitive environment for equity options trading, MIAX PEARL does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Act. The Exchange believes that the proposed definitions would increase both intermarket and intramarket competition by encouraging Members to direct their order flow to the Exchange, which should enhance the quality of quoting and increase the volume of contracts traded on MIAX PEARL. MIAX PEARL's proposed non-transaction fee levels, as described herein, are comparable to fee levels charged by other options exchanges for the same or similar services, including those fees assessed by its affiliate, MIAX Options. Further, the Exchange believes that its waiver of the assessment of such non-transaction fees for new Members for the limited period specified above will not impose any burden on competition and in fact will encourage competition. The Exchange believes that by offering competitive fee rates based upon objective criteria like volume and quoting activity on the Exchange it will increase competition and attract firms of different sizes and business models to become Members and participate on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[31] and Rule 19b–4(f)(2) [32] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–PEARL–2018–07 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–PEARL–2018–07. 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

[29] *NetCoalition,* at 15 (quoting H.R. Rep. No. 94–229, at 92 (1975), as reprinted in 1975 U.S.C.C.A.N. 321, 323).

[30] *See* supra note 25.

[31] 15 U.S.C. 78s(b)(3)(A)(ii).

[32] 17 CFR 240.19b–4(f)(2).

post all comments on the Commission's internet website *(http://www.sec.gov/rules/sro.shtml)*. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2018–07 and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05452 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82863; File No. SR–LCH SA–2018–002]

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to End of Day Price Contribution

March 13, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on March 8, 2018,[3] Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by LCH SA. LCH SA has filed the proposed rule change pursuant to Section 19(b)(3)(A)[4] of the Act and Rule 19b–4(f)(4)[5] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] This notice supersedes and replaces the notice of this proposed rule change previously made public on the Commission's website on March 5, 2018.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to amend its CDS Clearing Procedures (the ''Procedures'') in order to implement a new window for end of day price contribution for CDX North American indices and related USD denominated single name CDS transactions at New York close of business (the ''Proposed Rule Change'').

The text of the proposed rule change has been annexed as Exhibit 5.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In connection with the clearing of CDX North American indices and related USD denominated single name CDS transactions, LCH SA proposes to modify the end of day price contribution process by changing the following timelines for a CDS Contractual Currency[6] in US Dollar:

—The daily Price Requirement Files availability for download from between 14:30 and 15:00 GMT to from 14:30 New York City local time except when the Price Contribution Day occurs on the Price Contribution Day immediately preceding 1st January, 4th July or 25th December for which the files may be available earlier as notified by LCH SA in advance;

—The daily Market Data submission by Price Contribution Participants from between 16:00 and 16:35 GMT to between 16:30 and 16:35 New York City local time, except when the Price Contribution Day occurs on the Price Contribution Day immediately preceding 1st January, 4th July or 25th December for which the files may be available earlier as notified by LCH SA in advance;

—The fallback to composite spread/prices from 17:15 GMT to 17:15 New York City local time;

—The disclosure of the occurrence of a Firm Day to Price Contribution Participants from promptly after the closure of the submission window at 16:35 GMT to promptly after the closure of the submission window at 16:35 New York City local time;

—The execution of a CDS Cross Trade by Price Contribution Participants on a Firm Day from prior to 18:30 GMT to prior to 17:30 New York City local time;

—The notification of execution of Cross Trades on a Firm Day by a Price Contribution Participant to LCH SA from before 18:30 GMT to before 17:30 New York City local time.

LCH SA is also taking this opportunity to make the following amendments to Section 5 of the Procedures with respect to the timeline of the end of day price contribution process for a CDS with a CDS Contractual Currency in Euro and an Index Swaption:

—The daily Price Requirement Files availability for download from between 14:30 and 15:00 GMT to from 13:15 GMT, except when the Price Contribution Day occurs on the Price Contribution Day immediately preceding 1st January or 25th December for which the files may be available earlier as notified by LCH SA in advance;

—The daily Market Data submission by Price Contribution Participants from between 16:00 and 16:35 GMT to between 16:30 and 16:35 GMT, except when the Price Contribution Day occurs on the Price Contribution Day immediately preceding 1st January or 25th December for which the files may be available earlier as notified by LCH SA in advance.

The main purpose of the Proposed Rule Change is to allow LCH SA to mark to market USD denominated index and

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(4).

[6] Capitalized terms not defined herein are defined in LCH SA's Rulebook, available at: *https://www.lch.com/resources/rules-and-regulations/sa-rulebooks.*

single names positions with prices contributed at the close rather than in the middle of the trading session for these instruments such that both the Initial Margin and Variation Margin to be settled at the following First Margin Run are reflecting accurately the entirety of the previous trading session and the associated market moves.

2. Statutory Basis

LCH SA believes that the Proposed Rule Change is consistent with the requirements of Section 17A of the Act [7] and regulations thereunder applicable to it, including the standards under Rule 17Ad–22.[8]

Specifically, Section 17A(b)(3)(F) [9] of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. As noted above, the Proposed Rule Change will allow LCH SA to reflect more accurately in its Initial Margin and Variation Margin calculations the entirety of the market moves for USD denominated index and single names observed in the previous trading session, and thus further strengthen the safeguarding of securities and funds under control of LCH SA.

LCH SA believes that the Proposed Rule Change satisfies the requirements of Rule 17Ad–22(b)(2), (b)(3), (e)(1), (e)(4), and (e)(6).[10]

Rule 17Ad–22(b)(2) requires a clearing agency acting as a central counterparty to use margin requirements to limit its credit exposures to participants under normal market conditions and to use risk-based models and parameters to set margin requirements.[11] Rule 17Ad–22(b)(3) [12] requires each clearing agency acting as a central counterparty for security-based swaps to maintain sufficient financial resources to withstand, at a minimum, a default by the two participant families to which it has the largest exposure in extreme but plausible market conditions (the ''cover two standard''). Rule 17Ad–22(e)(4)(i) requires a covered clearing agency to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing and settlement processes by maintaining sufficient financial resources to cover its credit exposure to each participant fully with a high degree of confidence,[13] and Rule 17Ad–22(e)(6) requires a covered clearing agency that provides central counterparty services to cover its credit exposures to its participants by establishing a risk-based margin system that meets certain minimum requirements.[14]

As described above, LCH SA proposes to amend the timeline of the end of price contribution process for USD denominated index and single name positions to reflect the market moves observed during the entirety of the previous trading session in the calculation of the Initial Margin and Variation Margin to be settled at the following First Margin Run. This implies that the margin requirements set by LCH SA and use of such margin requirements limit LCH SA's credit exposures to participants in clearing USD denominated index and single name CDS transactions under normal market conditions, consistent with Rule 17Ad–22(b)(2).[15] LCH SA also believes that its current risk-based margin methodology, by relying on prices contributed at the close of the trading session, takes into account, and generates margin levels commensurate with, the risks and particular attributes of USD denominated index and single name CDS transactions at the product and portfolio levels, appropriate to the relevant market it serves, consistent with Rule 17Ad–22(e)(6)(i) and (v).[16] In addition, LCH SA believes that the margin calculation under the current CDSClear margin framework and based on prices for USD denominated index and single name positions contributed at the close of the trading session would also sufficiently account for the 5-day liquidation period for house account portfolio and 7-day liquidation period for client portfolio and therefore, is reasonably designed to cover LCH SA's potential future exposure to participants in the interval between the last margin collection and the close out of positions following a participant default, consistent with Rule 17Ad–22(e)(6)(iii).[17]

Further, Rule 17Ad–22(b)(3) requires a clearing agency acting as a central counterparty for security-based swaps to establish policies and procedures reasonably designed to maintain the cover two standard.[18] Similarly, Rule 17Ad–22(e)(4)(ii) requires a covered clearing agency that provides central counterparty services for security-based swaps to maintain financial resources additional to margin to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, meeting the cover two standard.[19] LCH SA believes that its current Default Fund methodology based on prices for USD denominated index and single name positions provided at the close of the trading session will also appropriately incorporate the risk of clearing USD denominated index and single name CDS transactions, as together with the existing CDSClear margin framework, will be reasonably designed to ensure that LCH SA maintains sufficient financial resources to meet the cover two standard, in accordance with Rule 17Ad–22(b)(3) and (e)(4)(ii).[20]

LCH SA also believes that the proposed rule change is consistent with Rule 17Ad–22(e)(1), which requires each covered clearing agency's policies and procedures be reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[21] As described above, the proposed rule change would make a clear distinction on the timelines associated to the end of day price contribution process for Euro and USD denominated positions. LCH SA believes that this change would provide for a clear and transparent legal basis for CDSClear clearing members' requirement to provide accurate prices on all of their open positions, consistent with Rule 17Ad–22(e)(1).[22]

For the reasons stated above, LCH SA believes that the proposed rule change is consistent with the requirements of prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts and transactions, and assuring the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible, in accordance with 17A(b)(3)(F) of the Act.[23]

B. Clearing Agency's Statement on Burden on Competition.

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency do not impose any burden on

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 240.17Ad–22.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(b)(2), (b)(3), (e)(1), (e)(4), and (e)(6).

[11] 17 CFR 240.17Ad–22(b)(2).

[12] 17 CFR 240.17Ad–22(b)(3).

[13] 17 CFR 240.17Ad–22(e)(4)(i).

[14] 17 CFR 240.17Ad–22(e)(6).

[15] 17 CFR 240.17Ad–22(b)(2).

[16] 17 CFR 240.17Ad–22(e)(6)(i) and (v).

[17] 17 CFR 240.17Ad–22(e)(6)(iii).

[18] 17 CFR 240.17Ad–22(b)(3).

[19] 17 CFR 240.17Ad–22(e)(4)(ii).

[20] 17 CFR 240.17Ad–22(b)(3) and (e)(4)(ii).

[21] 17 CFR 240.17Ad–22(e)(1).

[22] 17 CFR 240.17Ad–22(e)(1).

[23] 15 U.S.C. 78q–1(b)(3)(F).

competition not necessary or appropriate in furtherance of the purposes of the Act.[24]

The Proposed Rule Change will apply equally to all CDSClear members and clients and does not adversely affect their ability to engage in cleared transactions or to access clearing services offered by LCH SA CDSClear.

Therefore, LCH SA does not believe that the Proposed Rule Change would have any impact, or impose any burden, on competition that is not necessary or appropriate in furtherance of the purposes 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 rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [25] and paragraph (f) of Rule 19b–4 thereunder.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–LCH SA–2018–002 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–LCH SA–2018–002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of LCH SA and on LCH SA's website at *http://www.lch.com/asset-classes/cdsclear*.

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–LCH SA–2018–002 and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05448 Filed 3–16–18; 8:45 am]

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[24] 15 U.S.C. 78q–1(b)(3)(I).

[25] 15 U.S.C. 78s.

[26] 17 CFR 240.19b–4.

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82864; File No. SR–NYSEAMER–2018–07]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE American Company Guide To Require That Listed Companies Provide Notice to the Exchange of Announcements of Dividends or Stock Distributions at Least Ten Minutes in Advance of Public Release

March 13, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on March 1, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Company Guide (the ''Company Guide'') to (i) require that listed companies provide notice to the Exchange of announcements of dividends or stock distributions at least 10 minutes in advance of public release, (ii) clarify the application of the immediate release policy to dividends and stock distributions, and (iii) adopt a provision specifying how listed companies must provide required notifications to the Exchange.

The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE American LLC (''NYSE American'' or the ''Exchange'') proposes to amend the NYSE American Company Guide (the ''Company Guide'') to (i) require that listed companies provide notice to the Exchange of announcements of dividends and stock distributions at least 10 minutes in advance of public release, (ii) clarify the application of the immediate release policy to dividends and stock distributions, and (iii) adopt a provision specifying how listed companies must provide required notifications to the Exchange.

Advance Notice Requirements for Dividends and Stock Distributions

Section 501 of the Company Guide currently requires listed companies to publicize and notify the Exchange immediately of any action taken in respect to the payment or non-payment of dividends. The Exchange proposes to amend Section 501 to require listed companies to provide notice to the Exchange at least 10 minutes before making any public announcement with respect to a dividend or stock distribution [4] in all cases (including the omission or postponement of a dividend action at the customary time as well as the declaration of a dividend), including outside of the hours in which the Exchange's immediate release policy is in operation.[5] The rule as revised will provide that such notice is in addition to immediate publicity, should be given as soon as possible after declaration (but in any event at least ten days in advance of the record date), and should be given to the Exchange in accordance with proposed Section 405 (as described below).

The principal effect of this amendment is to require listed companies to provide 10 minutes advance notice to the Exchange with respect to a dividend or stock distribution announcement made at any time, rather than just during the hours of operation of the immediate release policy, as is currently the case. The amended policy would take effect as of April 1, 2018. A comparable amended dividend notification policy recently adopted by the New York Stock Exchange (''NYSE'') was implemented on February 1, 2018.[6]

The Exchange believes there are significant benefits to requiring listed companies to provide all announcements of dividends and stock distributions to the Exchange prior to their public dissemination. In particular, if the Exchange is provided dividend and stock distribution information prior to its public availability, Exchange staff will be able to address any issues that may arise in relation to any announcement of a dividend or stock distribution. The proposed advance notice requirement will enable Exchange staff to ensure that a listed company's proposed dividend or stock distribution schedule complies with applicable Exchange requirements, including the requirement to provide 10 days advanced notice of the record date, and that the company's disclosure of the application of the Exchange's ''ex''-dividend trading policy will be accurate. The Exchange intends to have staff available at all times to review dividend and stock distribution notifications immediately upon receipt, regardless of what time or day of the week they are provided. The staff will contact a listed company immediately if there is a problem with its notification. Addressing problems with dividend and stock distribution notifications before they are issued publicly will avoid any confusion in the marketplace resulting from the dissemination of inaccurate information.

The Exchange proposes amendments to Sections 503 and 504 to conform to the proposed revisions to Section 501. The proposed amendments to Section 503 would: (i) Specify that the company announcing a cash or stock dividend should comply with the notification requirements set forth in proposed Section 405 and proposed amended Section 501, as well as the immediate release policy set forth in proposed amended Sections 401(a) and (b) (as described below); and (ii) delete the detailed discussion in that rule of the methods by which companies comply with the immediate release policy, as that discussion is made redundant by the cross-reference to Sections 401(a) and (b). The proposed amendments to Section 504 would specific that announcements with respect to non-payment of dividends should be provided to the Exchange pursuant to Section 501 and issued to the public pursuant to the immediate release policy set forth in Sections 401 and 402 and that the notice and announcement should be in the form specified in Section 503.

Application of Immediate Release Policy to Dividends

Section 401(a) of the Company Guide provides that a listed company is required to make immediate public disclosure of all material information concerning its affairs, except in unusual circumstances (referred to as the Exchange's ''immediate release policy''). When such disclosure is to be made between 7:00 a.m. and 4:00 p.m., Eastern Time, it is essential that the Exchange be notified at least ten minutes prior to the announcement. The Exchange proposes to add commentary to Section 401(a), to clarify that listed companies must comply with the notification procedures in Sections 401(a) and (b) with respect to all announcements relating to a dividend or stock distribution when such disclosure is to be made between 7:00 a.m. and 4:00 p.m., Eastern Time. The proposed commentary would also specify that listed companies must also comply with the notification requirements of proposed amended Section 501 with respect to all such announcements, including outside of the hours of operation of the immediate release policy.

Uniform Method for Providing Notifications to the Exchange

The Exchange proposes to adopt as new Section 405 of the Company Guide a provision that will specify how listed companies must comply with rules requiring them to provide notifications to the Exchange, including under Section 501. This proposed provision is substantively the same as Section 204.00(A) of the NYSE Listed Company

[4] The Exchange proposes to expand Section 501 to encompass stock distributions as well as cash dividends. The Exchange believes it is appropriate to treat stock distributions the same as cash dividends for this purpose as they have a similar effect on the economic interests of the shareholders and the trading market for the shares. This approach mirrors the approach taken in the comparable provision in the NYSE Listed Company Manual.

[5] Pursuant to Section 401(a) of the Company Guide, listed companies must comply with the Exchange's immediate release policy between 7:00 a.m. and 4:00 p.m., Eastern Time.

[6] *See* 82 FR 39485 (August 18, 2017); Securities Exchange Act Release No. 81393 (August 14, 2017) (SR–NYSE–2017–17). *See also* 82 FR 42712 (September 11, 2017); Securities Exchange Act Release No. 81531 (September 5, 2017) (SR–NYSE–2017–43) (delaying implementation of the amended NYSE dividend notice requirements).

Manual.[7] At the time of initial adoption, Section 405 would only apply initially to notifications required under proposed amended Section 501.

Under proposed Section 405, the company shall provide such notice via a web portal or email address specified by the Exchange on its website (and the Exchange shall promptly update and prominently display the applicable information on its website in the event that it ever changes), except in emergency situations, when notification may instead be provided by telephone and confirmed by facsimile as specified by the Exchange on its website. For purposes of Section 405, an emergency situation will include lack of computer or internet access; a technical problem on the systems of either the listed company or the Exchange; or an incompatibility between the systems of the listed company and the Exchange. Section 405 will remind listed companies that they must continue to use the Exchange's telephone alert procedures when notifying the Exchange of any material event or a statement dealing with a rumor which calls for immediate release under Section 401. If a rule containing a notification requirement does not specify that such requirement must be met by complying with the notification procedures set forth in Section 405, the company will be permitted to use the methods provided by Section 405 or any other reasonable method. Section 405 will state that listed companies are encouraged to contact their Exchange representative if they have any questions about the appropriate method of providing notification under applicable Exchange rules.

The purpose of proposed Section 405 is to clarify the methods by which listed companies must notify the Exchange when certain events occur. By creating a uniform method of notification by web portal or email for Exchange notification requirements, the Exchange may reduce the likelihood that companies make a mistake when trying to notify the Exchange of important events. In particular, timely notification with respect to dividends and other distributions is critical to allow investors time to make arrangements to be holders of a security by a certain date for a distribution or shareholder meeting. In such cases, it makes sense to require listed companies to give notice to the Exchange using current, efficient electronic methods that more easily lend themselves to accurate recordkeeping than manual or written methods.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b)[8] of the Act, in general, and further the objectives of Section 6(b)(5) of the Act,[9] in particular in that they are designed 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 and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed amendment to Section 501 of the Company Guide and the conforming amendments to Sections 503 and 504 are consistent with the protection of investors and the public interest in accordance with Section 6(b)(5) of the Act in that the changes should allow Exchange staff to resolve any rule compliance issues with a listed company's dividend or stock distribution action prior its public announcement. By requiring listed companies to provide the Exchange dividend or stock distribution notices at least ten minutes prior to the public announcement of a distribution, irrespective of the time of day (rather than limited to the hours of 7:00 a.m. and 4:00 p.m. as in the current rule), the Exchange should be able to address any concerns with the content of such notifications (including the ten day advance notice requirement), to ensure compliance with both Exchange and Commission rules, consistent with investor protection and the public interest. In addition, the proposed amendments are reasonably designed to reduce the possibility for investor confusion in the marketplace resulting from the dissemination of inaccurate or misleading dividend or stock distribution information.

The Exchange believes that the proposed amendments to Section 401(a) of the Company Guide are consistent with the Act in that they will provide transparency and clarity to listed companies on the application of the immediate news release policy to dividend or stock distribution announcements.

The Exchange believes that the adoption of proposed Section 405 of the Company Guide is consistent with the protection of investors and the public interest in accordance with Section 6(b)(5) of the Act because it is intended to clarify the methods by which listed companies must notify the Exchange when certain events occur. By creating a uniform method of notification by web portal or email for Exchange notification requirements, the Exchange may reduce the likelihood that companies make a mistake when trying to notify the Exchange of important events. In particular, timely notification with respect to dividends and other distributions is critical to allow investors time to make arrangements to ensure that they are holders of a security on the record date for a distribution or shareholder meeting. In such cases, it makes sense to require listed companies to give notice to the Exchange using current, efficient electronic methods that more easily lend themselves to accurate recordkeeping than manual or written methods.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed amendments to the Company Guide do not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change does not affect competition in any way. Rather, the proposed rule changes will (i) enable the Exchange to be aware of all dividend announcements before they are made so that Exchange staff is appropriately informed to enable it to address any rule compliance problems with a listed company's dividend schedule before it is publicly announced and (ii) specify a uniform approach to providing notifications to the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has

[7] *See* Securities Exchange Act Release No. 68635 (January 11, 2013); 78 FR 3958 (January 17, 2013) (SR–NYSE–2012–54).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2018–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–07, and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

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[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form S–3, SEC File No. 270–061, OMB Control No. 3235–0073.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget request for extension of the previously approved collection of information discussed below.

Form S–3 (17 CFR 239.13) is used by issuers to register securities pursuant to the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Form S–3 provides investors with material information to make investment decisions regarding securities offered to the public. Form S–3 takes approximately 472.48 hours per response and is filed by approximately 1,657 issuers annually. We estimate that 25% of the 472.48 hours per response (118.12 hours) is prepared by the issuer for a total annual reporting burden of 195,725 hours (118.12 hours per response × 1,657 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05527 Filed 3–16–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form SF–1, SEC File No. 270–610, OMB Control No. 3235–0707.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form SF–1 (17 CFR 239.44) is the registration statement for non-shelf issuers of assets-backed securities register a public offering of their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information in the asset-backed securities market. Form SF–1 takes approximately 1,380 hours per response and is filed by approximately 6 respondents. We estimate that 25% of

the 1,380 hours per response (345 hours) is prepared by the registrant for a total annual reporting burden of 2,070 hours (345 hours per response × 6 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form 3, SEC File No. 270–125, OMB Control No. 3235–0104.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection[s] of information discussed below.

Exchange Act Forms 3 is filed by insiders of public companies that have a class of securities registered under Section 12 of the Exchange Act. Form 3 is an initial statement beneficial ownership of securities. Approximately 21,968 insiders file Form 3 annually and it takes approximately 0.50 hours to prepare for a total of 10,984 annual burden hours (0.50 hours per response × 21,968 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05524 Filed 3–16–18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form ABS–EE, SEC File No. 270–609, OMB Control No.3235–706.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form ABS–EE (17 CFR 249.1401) is filed by asset-backed issuers to provide asset-level information for registered offerings of asset-backed securities at the time of securitization and on an ongoing basis required by Item 1111(h) of Regulation AB (17 CFR 229.1111(h)). The purpose of the information collected on Form ABS–EE is to implement the disclosure requirements of Section 7(c) of the Securities Act of 1933 (15 U.S.C. 77g(c)) to provide information regarding the use of representations and warranties in the asset-backed securities markets. We estimate that approximately 13,374 securitizers will file Form ABS–EE annually at estimated 170,089 burden hours per response. In addition, we estimate that 25% of the 50.87152 hours per response (12.71788 hours) is carried internally by the securitizers for a total annual reporting burden of 170,089 hours (12.71788 hours per response × 13,374 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82866; File No. SR–Phlx–2018–20]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing of Proposed Rule Change to a Proposal To Amend Rule 1079, FLEX Index, Equity and Currency Options and Rule 1059, Accommodation Transactions

March 13, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 a proposal to amend Rule 1079, FLEX Index, Equity and Currency Options and Rule 1059, Accommodation Transactions.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 1079 governing FLEX option transactions in order to permit open FLEX option positions to be closed pursuant to Rule 1059, Accommodation Transactions, which provides for cabinet trading [3] and which is sometimes referred to as the ''cabinet rule''. Conforming changes are proposed to be made to Rule 1059 itself.

FLEX options are currently traded on the Exchange pursuant to the procedures set forth in Rule 1079 which permit market participants to customize equity options to fit specific investment strategies and goals. Rule 1079 allows investors to specify characteristics such as the expiration date, strike price, and exercise-style of FLEX option contracts. Rule 1079(a)(4) governs the quote format of FLEX trades, requiring bids and offers to be made pursuant to Rule 1034 which specifies minimum increments.[4]

An ''accommodation'' or ''cabinet'' trade refers to trades in listed options on the Exchange that are of minimal value or are not actively traded. Cabinet trading is generally conducted in accordance with Exchange Rules except as provided in Rule 1059 which sets forth specific procedures for cabinet trades. Rule 1059(a) provides that a cabinet order is a closing limit order at a price of $1 per option contract for the account of a customer, firm, specialist or ROT.[5] The rule provides that an opening order is *not* a cabinet order, but may in certain cases be matched with a cabinet order.

Phlx now proposes new Rule 1079(g), which would provide that open FLEX option positions are eligible to be closed in cabinet trades under Rule 1059. The proposed new rule would specify that the FLEX option cabinet order may be executed against contraside interest to close a FLEX option position or, to the extent permitted under Rule 1059(a)(iii), against contraside interest which opens a FLEX option position. Under the new rule Sections (a) and (b) of Rule 1079 would not apply to FLEX option transactions executed pursuant to Rule 1079(g) and Rule 1059, while Sections (c)–(g) of Rule 1079 would continue to apply to any FLEX option position opened pursuant to Rule 1059.[6]

New, conforming Commentary language would also be added to Rule 1059. Proposed new Rule 1059 Commentary .03 would specify that, pursuant to Rule 1079(g), open FLEX option positions are eligible to be closed in accordance with Rule 1059 at the minimum increments specified therein. The Commentary would state that a FLEX option cabinet order could be executed against contraside interest which itself closes a FLEX option position or, to the extent permitted under Rule 1059(a)(iii), against contraside interest which opens a FLEX option position. Thus, as proposed, the new language would require the initiating side of each FLEX cabinet trade to be a closing transaction, and would permit cabinet trading which opens FLEX positions to occur only as and when already permitted under Rule 1059's existing priority rules for non-FLEX cabinet trades. Language would be added to Rule 1059 Commentary .03 paralleling the last two sentences of proposed Rule 1079(g) which detail the provisions of Rule 1079 that shall not apply to FLEX option transactions executed pursuant to Rule 1079(g) and Rule 1059, as well as the provisions of Rule 1079 that shall apply to FLEX option positions opened pursuant to Rule 1059.

Proposed new Rule 1079(g) would permit an open FLEX option position to be closed through the use of a cabinet order, which would be represented by a floor broker on the floor as specified in Rule 1059(a).[7] In the past, the Exchange did not provide for the closing of FLEX trades under the cabinet rule due to lack of interest. More recently, market

[3] Currently cabinet or accommodation trading of option contracts is intended to accommodate persons wishing to effect closing transactions in those series of options dealt in on the Exchange for which there is no auction market. An accommodation or cabinet trade refers to trades in listed options on the Exchange that are worthless or not actively traded, often times conducted to establish tax losses. Cabinet or accommodation trading of option contracts is currently intended to accommodate persons wishing to effect closing transactions in those series of options dealt in on the Exchange for which there is no auction market. A cabinet trade is a transaction in which the per-contract value of the cabinet trade is less than the per-contract value of a trade at the specified minimum increment for the option contract. The current proposal would extend the availability of cabinet trading to FLEX options in certain circumstances.

[4] Rule 1034(a) provides for quote formats ''(A) in the case of FLEX index options and equity options, a bid and/or offer in the form of a decimal price (*e.g.,* .10 or .25), pursuant to Rule 1034, a specific dollar amount, or a percentage of the underlying equivalent value, in the case of FLEX index options, or security, in the case of FLEX equity options, rounded to the nearest minimum increment; or (B) in the case of FLEX currency options, in the form of dollars per unit of underlying foreign currency in the minimum increments set forth for U.S. dollar settled foreign currency options in Rule 1034(a).''

[5] Commentary .02 to Rule 1059 provides that limit orders with a price of at least $0 but less than $1 per option contract may also trade under the terms and conditions in Rule 1059, subject to certain limitations.

[6] Rule 1079(a), Characteristics, sets forth the potential characteristics (including, for example, underlying interest, type, exercise price, quote format, exercise style, and expiration date) of FLEX options and is inapplicable to and unnecessary for cabinet trade closing of FLEX option positions whose characteristics are already known. Other provisions of Rule 1079(a) which define certain aspects of the FLEX request for quote (RFQ) process as well as Rule 1079(b), Procedure for Quoting and Trading FLEX Options, are likewise inapplicable, given that trading FLEX Options in the cabinet would instead be governed by the Rule 1059 cabinet trading rules. Rule 1079 Section (c), Who May Trade FLEX Options, would continue to apply and would restrict participation in FLEX cabinet trades to the entities meeting the requirements of that section. Rule 1079 Sections (d), Position Limits, (e), Exercise Limits, and (f), relating to the exercise-by-exception procedure of Rule 805 of the Options Clearing Corporation, would continue to apply to any open FLEX position resulting from a FLEX option transaction conducted under Rule 1059.

[7] Rule 1059(a)(iii) sets forth the manner in which a cabinet order may be either crossed or matched in three different scenarios: First, when the floor broker holds the cabinet order only, second, when the floor broker holds the cabinet order and also a contra-side cabinet order, and third, when the floor broker holds a cabinet order and also a contra-side opening order. Once the cabinet order has been either crossed or matched, the floor broker is required by Rule 1059(a)(iv) to submit the designated cabinet form to the Nasdaq Market Operations staff for clearance and reporting at the close of the business day.

participants have expressed a desire to close FLEX option positions under the cabinet rule and this proposed rule change will permit them to do so. The rule would provide that notwithstanding Rule 1079(a)(4) regarding FLEX Index, Equity and Currency Options minimum increments, open FLEX option positions are eligible to be closed in accordance with Rule 1059, Accommodation Transactions, at the minimum increments specified therein. The Exchange believes that permitting FLEX option positions to be closed pursuant to the cabinet rule will provide FLEX option investors additional flexibility in the maintenance or closing out of their FLEX option positions.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by permitting investors who desire to close FLEX options positions the flexibility to do so in a cabinet transaction. The Exchange believes that cabinet trades promote competition and afford market participants greater opportunities to close out their options positions. By providing FLEX options holders the additional flexibility of proposed Rule 1079(g) and Rule 1059 Commentary .03, the Exchange should be able to attract additional FLEX option transactions to the Exchange. The proposed amendments should perfect the mechanism of a free and open market and improve market quality by permitting holders of FLEX positions to trade out of those positions more easily and efficiently.

The proposed amendments should perfect the mechanism of a free and open market by stating clearly that Rule 1079(a), Characteristics, and Rule 1079(b), Procedure for Quoting and Trading FLEX Options, will not apply, given that trading FLEX Options in the cabinet would instead be governed by the Rule 1059 cabinet trading rules. Rule 1079 Section (c), Who May Trade FLEX Options, would continue to apply and would restrict participation in FLEX cabinet trades to the entities meeting the requirements of that section. Rule 1079 Sections (d), Position Limits, (e), Exercise Limits, and (f), relating to the exercise-by-exception procedure of Rule 805 of the Options Clearing Corporation, would continue to apply to any open FLEX position resulting from a FLEX option transaction conducted under Rule 1059. Additionally, the proposed language will protect investors and the public interest because Sections (c)–(g) of Rule 1079 shall continue to apply to any FLEX option position opened pursuant to Rule 1059, just as they apply today to FLEX positions opened pursuant to Rule 1079.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would allow all market participants holding FLEX option positions the flexibility to close them using the same procedures currently set forth in the cabinet rule for non-FLEX option positions. Permitting FLEX option positions to be closed pursuant to the cabinet rule will provide FLEX option investors additional opportunities to close out their FLEX option positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2018–20 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–20 and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05451 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–208, OMB Control No. 3235–0213]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Rule 17g–1

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17g–1 (17 CFR 270.17g–1) under the Investment Company Act of 1940 (the ''Act'') (15 U.S.C. 80a–17(g)) governs the fidelity bonding of officers and employees of registered management investment companies (''funds'') and their advisers. Rule 17g–1 requires, in part, the following:

Independent Directors' Approval

The form and amount of the fidelity bond must be approved by a majority of the fund's independent directors at least once annually, and the amount of any premium paid by the fund for any ''joint insured bond,'' covering multiple funds or certain affiliates, must be approved by a majority of the fund's independent directors.

Terms and Provisions of the Bond

The amount of the bond may not be less than the minimum amounts of coverage set forth in a schedule based on the fund's gross assets. The bond must provide that it shall not be cancelled, terminated, or modified except upon 60-days written notice to the affected party and to the Commission. In the case of a joint insured bond, 60-days written notice must also be given to each fund covered by the bond. A joint insured bond must provide that the fidelity insurance company will provide all funds covered by the bond with a copy of the agreement, a copy of any claim on the bond, and notification of the terms of the settlement of any claim prior to execution of that settlement. Finally, a fund that is insured by a joint bond must enter into an agreement with all other parties insured by the joint bond regarding recovery under the bond.

Filings With the Commission

Upon the execution of a fidelity bond or any amendment thereto, a fund must file with the Commission within 10 days: (i) A copy of the executed bond or any amendment to the bond, (ii) the independent directors' resolution approving the bond, and (iii) a statement as to the period for which premiums have been paid on the bond. In the case of a joint insured bond, a fund must also file: (i) A statement showing the amount the fund would have been required to maintain under the rule if it were insured under a single insured bond; and (ii) the agreement between the fund and all other insured parties regarding recovery under the bond. A fund must also notify the Commission in writing within five days of any claim or settlement on a claim under the fidelity bond.

Notices to Directors

A fund must notify by registered mail each member of its board of directors of: (i) Any cancellation, termination, or modification of the fidelity bond at least 45 days prior to the effective date; and (ii) the filing or settlement of any claim under the fidelity bond when notification is filed with the Commission.

Rule 17g–1's independent directors' annual review requirements, fidelity bond content requirements, joint bond agreement requirement, and the required notices to directors are designed to ensure the safety of fund assets against losses due to the conduct of persons who may obtain access to those assets. These requirements also seek to facilitate oversight of a fund's fidelity bond. The rule's required filings with the Commission are designed to assist the Commission in monitoring funds' compliance with the fidelity bond requirements.

Based on conversations with representatives in the fund industry, the Commission staff estimates that for each of the estimated 3,173 active funds (respondents),[1] the average annual paperwork burden associated with rule 17g–1's requirements is two hours, one hour each for a compliance attorney and the board of directors as a whole. The time spent by a compliance attorney includes time spent filing reports with the Commission for fidelity losses (if any) as well as paperwork associated with any notices to directors, and managing any updates to the bond and the joint agreement (if one exists). The time spent by the board of directors as a whole includes any time spent initially establishing the bond, as well as time spent on annual updates and approvals. The Commission staff therefore estimates the total ongoing paperwork burden hours per year for all funds required by rule 17g–1 to be 6,346 hours (3,173 funds × 2 hours = 6,346 hours).

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act. These estimates are not derived from a comprehensive or even a representative survey or study of Commission rules. The collection of information required by rule 17g–1 is mandatory and will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are requested on: (i) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (ii) the accuracy of the Commission's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility and clarity of the information collected; and (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 13, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05431 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[1] Based on statistics compiled by Commission staff, we estimate that there are approximately 3,173 funds that must comply with the collections of information under rule 17g–1 and have made a filing within the last 12 months.

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

100 F Street NE, Washington, DC 20549–2736

Extension:

Form 10–D, SEC File No. 270–544, OMB Control No. 3235–0604

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 10–D is a periodic report used by asset-backed issuers to file distribution and pool performance information pursuant to Rule 13a–17 (17 CFR 240.13a–17) or Rule 15d–17 (17 CFR 240.15d–17) of the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*). The form is required to be filed within 15 days after each required distribution date on the asset-backed securities, as specified in the governing documents for such securities. The information provided by Form 10–D is mandatory and all information is made available to the public upon request. Form 10–D takes approximately 30 hours per response to prepare and is filed by approximately 2,169 respondents. Each respondent files an estimated 3.8073 Form 10–Ds per year for a total of 8,258 responses. We estimate that 75% of the 30 hours per response (22.5 hours) is prepared by the company for a total annual reporting burden of 185,805 hours (22.5 hours per response × 8,258 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov*; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05530 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form SF–3 SEC File No. 270–638, OMB Control No. 3235–0690

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form SF–3 (17 CFR 239.45) is a short form registration statement used for non-shelf issuers of asset-backed securities to register a public offering of their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*). Form SF–3 takes approximately 1,380 hours per response and is filed by approximately 71 issuers annually. The information collected is intended to ensure that the information required to be filed by the Commission permits verification of compliance with securities law requirements and assures the public availability of such information in the asset-backed securities market. We estimate that 25% of the 1,380 hours per response (345 hours) is prepared by the issuer for a total annual reporting burden of 24,495 hours (345 hours per response × 71 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05531 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Form 15, SEC File No. 270–170, OMB Control No. 3235–0167.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 15 (17 CFR 249.323) is a certification of termination of a class of security under Section 12(g) or notice of suspension of duty to file reports pursuant to Sections 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). All information is provided to the public for review. We estimate that approximately 1,062 issuers file Form 15 annually and it takes approximately 1.5 hours per response to prepare for a total of 1,593 annual burden hours (1.5 hours per response × 1,062 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov* . Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela

Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05525 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82868; File No. SR–MIAX–2018–08]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 13, 2018.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 28, 2018, Miami International Securities Exchange LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend the MIAX Options Fee Schedule (the ''Fee Schedule'').

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, 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 the Fee Schedule to modify certain aspects of the following fees that apply to MIAX Options Market Makers: (i) The Monthly Trading Permit fees; and (ii) the MEI Port fees.

The Exchange issues Trading Permits that confer the ability to transact on the Exchange.[3] Currently, the Exchange assesses the following monthly fees for MIAX Options Market Maker Trading Permits: (i) $7,000 for Market Maker Assignments in up to 10 option classes or up to 20% of option classes by volume; (ii) $12,000 for Market Maker Assignments in up to 40 option classes or up to 35% of option classes by volume; (iii) $17,000 for Market Maker Assignments in up to 100 option classes or up to 50% of option classes by volume; and (iv) $22,000.00 for Market Maker Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX Options.[4] For the calculation of these monthly Trading Permit fees, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX Options in the prior calendar quarter.[5] Newly listed option classes are excluded from the calculation of the monthly Market Maker Trading Permit fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.

The Exchange assesses Market Makers the monthly Trading Permit fee based on the greatest number of classes listed on MIAX Options that the Market Maker was assigned to quote on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement. Members receiving Trading Permits during the month will be assessed Trading Permit fees according to this schedule, except that the calculation of the Trading Permit fee for the first month in which the Trading Permit is issued will be pro-rated based on the number of trading days occurring after the date on which the Trading Permit was in effect during that first month divided by the total number of trading days in such month multiplied by the monthly rate.

The Exchange now proposes to modify its Trading Permit fees that apply to the Market Makers who fall within the following Trading Permit fee levels, which represent the 3rd and 4th levels of the fee table: (i) Market Maker Assignments in up to 100 option classes or up to 50% of option classes by volume; and (ii) Market Maker Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX Options. Specifically, the Exchange proposes for these Monthly Trading Permit Fee levels, if the Market Maker's total monthly executed volume during the relevant month is less than 0.075% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be $15,500 instead of the fee otherwise applicable to such level.

The purpose of this proposed change is to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange. The Exchange believes that, by offering lower fixed costs to Market Makers that execute less volume, the Exchange will retain and attract smaller-scale Market Makers, which are an integral component of the option marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Since these

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] There is no limit on the number of Trading Permits that may be issued by the Exchange; however, the Exchange has the authority to limit or decrease the number of Trading Permits it has determined to issue provided it complies with the provisions set forth in Rule 200(a) and Section 6(c)(4) of the Exchange Act. *See* 15 U.S.C. 78(f)(c)(4). For a complete description of MIAX Options Trading Permits, *see* MIAX Rule 200.

[4] *See* the Fee Schedule, Section 3(b).

[5] The Exchange will use the following formula to calculate the percentage of total national average daily volume that the Market Maker assignment is for purposes of the Market Maker trading permit fee for a given month:

Market Maker assignment percentage of national average daily volume = [total volume during the prior calendar quarter in a class in which the Market Maker was assigned]/[total national volume in classes listed on MIAX Options in the prior calendar quarter].

smaller-scale Market Makers utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable and equitable to offer such Market Makers a lower fixed cost. The Exchange notes that other options exchanges assess certain of their membership fees at different rates, based upon a member's participation on that exchange,[6] and, as such, this concept is not novel. The proposed changes to the Trading Permit fees for Market Makers who fall within the 3rd and 4th levels of the fee table are based upon a business determination of current Market Maker assignments and trading volume.

The Exchange also proposes to modify its MEI Port fees assessable to certain Market Makers. Currently, MIAX Options assesses monthly MEI Port fees on Market Makers based upon the number of classes or class volume accessed by the Market Maker. Market Makers are allocated two (2) Full Service MEI Ports [7] and two (2) Limited Service MEI Ports per matching engine [8] to which they connect. The Exchange currently assesses the following MEI Port fees: (a) $5,000 for Market Maker Assignments in up to 5 option classes or up to 10% of option classes by volume; (b) $10,000 for Market Maker Assignments in up to 10 option classes or up to 20% of option classes by volume; (c) $14,000 for Market Maker Assignments in up to 40 option classes or up to 35% of option classes by volume; (d) $17,500 for Market Maker Assignments in up to 100 option classes or up to 50% of option classes by volume; and (e) $20,500 for Market Maker Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX Options.[9] The Exchange also currently charges $100 per month for each additional Limited Service MEI Port per matching engine for Market Makers over and above the two (2) Limited Service MEI Ports per matching engine that are allocated with the Full Service MEI Ports. The Full Service MEI Ports, Limited Service MEI Ports and the additional Limited Service MEI Ports all include access to the Exchange's Primary and Secondary data centers and its Disaster Recovery center. For the calculation of the monthly MEI Port fees that apply to Market Makers, the number of classes is defined as the greatest number of classes the Market Maker was assigned to quote in on any given day within the calendar month and the class volume percentage is based on the total national average daily volume in classes listed on MIAX Options in the prior calendar quarter.[10] Newly listed option classes are excluded from the calculation of the monthly MEI Port fee until the calendar quarter following their listing, at which time the newly listed option classes will be included in both the per class count and the percentage of total national average daily volume.

The Exchange assesses Market Makers the monthly MEI Port fees based on the greatest number of classes listed on MIAX Options that the Market Maker was assigned to quote on any given day within a calendar month and the applicable fee rate that is the lesser of either the per class basis or percentage of total national average daily volume measurement.

The Exchange now proposes to modify its MEI Port fees that apply to the Market Makers who fall within the following MEI Port fee levels, which represent the 4th and 5th levels of the fee table: Market Makers who have (i) Assignments in up to 100 option classes or up to 50% of option classes by volume and (ii) Assignments in over 100 option classes or over 50% of option classes by volume up to all option classes listed on MIAX Options. Specifically, the Exchange proposes for these Monthly MEI Port Fee levels, if the Market Maker's total monthly executed volume during the relevant month is less than 0.075% of the total monthly executed volume reported by OCC in the market maker account type for MIAX-listed option classes for that month, then the fee will be $14,500 instead of the fee otherwise applicable to such level.

The purpose of this proposed change is to provide a lower fixed cost to those Market Makers who are willing to quote the entire Exchange market (or substantial amount of the Exchange market), as objectively measured by either number of classes assigned or national ADV, but who do not otherwise execute a significant amount of volume on the Exchange. The Exchange believes that, by offering lower fixed costs to Market Makers that execute less volume, the Exchange will retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Since these smaller-scale Market Makers utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable and appropriate to offer such Market Makers a lower fixed cost. The Exchange notes that other options exchanges assess certain of their membership fees at different rates, based upon a member's participation on that exchange,[11] and, as such, this concept is not novel. The proposed changes to the MEI Port fees for Market Makers who fall within the 4th and 5th levels of the fee table are based upon a business determination of current Market Maker assignments and trading volume.

The proposed rule changes are scheduled to become operative on March 1, 2018.

2. Statutory Basis

The Exchange believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act [12]

[6] Cboe BZX Options Exchange (''BZX Options'') assesses the Participant Fee, which is a membership fee, according to a member's ADV. *See* Cboe BZX Options Exchange Fee Schedule under ''Membership Fees''. The Participant Fee is $500 if the member ADV is under 5000 and $1,000 if the member ADV is equal to or over 5000. *Id.*

[7] Full Service MEI Ports provide Market Makers with the ability to send Market Maker quotes, eQuotes, and quote purge messages to the MIAX Options System. Full Service MEI Ports are also capable of receiving administrative information. Market Makers are limited to two Full Service MEI Ports per matching engine.

[8] A ''matching engine'' is a part of the MIAX Options electronic system that processes options quotes and trades on a symbol-by-symbol basis. Some matching engines will process option classes with multiple root symbols, and other matching engines will be dedicated to one single option root symbol (for example, options on SPY will be processed by one single matching engine that is dedicated only to SPY). A particular root symbol may only be assigned to a single designated matching engine. A particular root symbol may not be assigned to multiple matching engines.

[9] *See* the Fee Schedule, Section 5(d)(ii).

[10] The Exchange will use the following formula to calculate the percentage of total national average daily volume that the Market Maker assignment is for purposes of the MEI Port fee for a given month:

Market Maker assignment percentage of national average daily volume = [total volume during the prior calendar quarter in a class in which the Market Maker was assigned]/[total national volume in classes listed on MIAX Options in the prior calendar quarter].

[11] *See supra* note 6. Also, regarding port fees specifically, Nasdaq Phlx LLC (''Phlx'') capped its Active SQF Port fee at $500 per month for smaller member organizations that they defined as ''Phlx Only Members'' and that had ''50 or less SQT assignments affiliated with their member organizations'' so that ''the Exchange may provide an equal opportunity to all members to access the Specialized Quote Fee (''SQF'') data at a lower cost.'' *See* Securities Exchange Act Release No. 64381 (May 3, 2011), 76 FR 26777 (May 9, 2011) (SR–Phlx–2011–57). Phlx currently caps all Active SQF Port fees assessed to members at $42,000 per month. *See* the Nasdaq Phlx LLC Pricing Schedule, Article VII, Section B. Phlx more recently capped the total fees assessable to PSX Participants at $30,000 per month and stated as reasoning that ''[t]he Exchange believes that the proposed fee cap will make PSX a more attractive venue for Participants, and help PSX both retain and attract new Participants.'' *See* Securities Exchange Act Release No. 78665 (August 24, 2016), 81 FR 59693 (August 30, 2016) (SR–Phlx–2016–85). *See* the Nasdaq Phlx LLC Pricing Schedule, Article VIII.

[12] 15 U.S.C. 78f(b).

in general, and furthers the objectives of Section 6(b)(4) of the Act [13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange members and issuers and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act [14] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customer, issuers, brokers and dealers.

The Exchange believes that the proposed amendments to the Trading Permit fees are consistent with Section 6(b)(4) of the Act in that they are reasonable, equitable and not unfairly discriminatory. The proposed amendments to the Trading Permit fees are reasonable in that, by offering lower fixed costs to Market Makers that execute less volume, the Exchange will retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Since these smaller-scale Market Makers utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable and appropriate to offer such Market Makers a lower fixed cost who are willing to quote the majority or entirety of the market. The Exchange also believes that its proposal is consistent with Section 6(b)(5) of the Act [15] because it will be uniformly applied to all Market Makers that execute less volume on the Exchange, as determined and measured by a uniform, objective, quantitative volume amount. The proposed Trading Permit fees are fair and equitable and not unreasonably discriminatory because they apply equally to all similarly situated Market Makers regardless of type and access to the Exchange is offered on terms that are not unfairly discriminatory.

The Exchange believes that the proposed amendments to the MEI Port fees are consistent with Section 6(b)(4) of the Act in that they are reasonable, equitable and not unfairly discriminatory. The proposed amendments to the MEI Port fees are reasonable in that, by offering lower fixed costs to Market Makers that execute less volume, the Exchange will retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Since these smaller-scale Market Makers utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable and appropriate to offer such Market Makers (who are willing to quote the majority or entirety of the market) a lower fixed cost. The Exchange also believes that its proposal is consistent with Section 6(b)(5) of the Act [16] because it will be uniformly applied to all Market Makers that execute less volume on the Exchange, as determined and measured by a uniform, objective, quantitative volume amount. The proposed MEI Port fees are fair and equitable and not unreasonably discriminatory because they apply equally to all similarly situated Market Makers regardless of type and access to the Exchange is offered on terms that are not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule changes will increase both intermarket and intramarket competition by enabling smaller-scale Market Makers who are willing to quote the entire marketplace (or a substantial amount of the entire marketplace) to access the Exchange at a lower fixed cost. By offering lower fixed costs to Market Makers that execute less volume, the Exchange believes that it will retain and attract smaller-scale Market Makers, which are an integral component of the option industry marketplace, but have been decreasing in number in recent years, due to industry consolidation and lower market maker profitability. Since these smaller-scale Market Makers utilize less Exchange capacity due to lower overall volume executed, the Exchange believes it is reasonable and appropriate to offer such Market Makers a lower fixed cost.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule changes reflect this competitive environment because they modify the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers on the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[17] and Rule 19b–4(f)(2) [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2018–08 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.

[13] 15 U.S.C. 78f(b)(4).
[14] 15 U.S.C. 78f(b)(5).
[15] 15 U.S.C. 78f(b)(5).
[16] 15 U.S.C. 78f(b)(5).
[17] 15 U.S.C. 78s(b)(3)(A)(ii).
[18] 17 CFR 240.19b–4(f)(2).

All submissions should refer to File Number SR–MIAX–2018–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website *(http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2018–08 and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05453 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82865; File No. SR–Phlx–2018–21]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Transaction Fees at Section VIII

March 13, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Section VIII (NASDAQ PSX fees) of Phlx's Pricing Schedule to remove the current transaction fees for any PSCN order (other than a PSKP order) that receives an execution on NASDAQ PSX (''PSX'') or that is routed away from PSX and receives an execution at an away market.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Section VIII of Phlx's Pricing Schedule to remove the current transaction fee for any PSCN order (other than a PSKP order) that receives an execution on PSX or that is routed away from PSX and receives an execution at an away market.

Currently, the Exchange assesses a charge of $0.0026 per share executed for PSCN orders,[3] other than PSKP orders,[4] that execute on PSX or that are routed to other venues and receive an execution on another venue. By way of comparison, for an order that executes on PSX, the execution fees for non-PSCN orders (including PSKP orders) for all securities that PSX trades that are priced at $1 or more per share range from $0.0028 per share executed to $0.0030 per share executed, depending on where that security is listed and whether the member meets certain established volume thresholds. For orders in securities that are priced at $1 or more per share that are routed to, and execute on other venues, the Exchange charges fees ranging from $0.0000 per share executed to $0.0035 per share executed (including PKSP orders).

The Exchange introduced the fee for PSCN orders in 2017.[5] Prior to the 2017 Proposal, a PSCN order that executed on PSX would be assessed a charge ranging from $0.0028–$0.0030 per share executed depending on the applicability of other factors set forth in the Pricing Schedule, *e.g.,* if the order was for a security that was listed on The Nasdaq Stock Market LLC (''Nasdaq''), or if the order was for a security that is listed on the New York Stock Exchange LLC (''NYSE''), and whether the member met the applicable volume thresholds.

Prior to the 2017 Proposal, a PSCN order that routed to another venue would be charged $0.0030 per share executed at NYSE, $0.0000 per share executed at Nasdaq BX, Inc. (''Nasdaq BX'') and $0.0030 per share executed in other venues. Pursuant to the 2017 Proposal, PSCN orders that execute on a venue other than PSX are charged $0.0026 per share executed. PSKP orders continue to be charged $0.0030 per share executed at NYSE, $0.0000 per share executed at Nasdaq BX, and $0.0030 per share executed in other venues.[6]

[3] PSCN is a routing option that is designed to attract users to PSX. An order using the PSCN routing option will check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. If shares remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center. *See* Rule 3315(a)(1)(A)(iv).

[4] PSKP is a form of PSCN, pursuant to which the entering firm instructs the System to bypass any market centers included in the PSCN System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. *Id.*

[5] *See* Securities Exchange Act Release No. 80938 (June 15, 2017), 82 FR 28171 (June 20, 2017) (SR–Phlx–2017–44) (''2017 Proposal'').

[6] In the 2017 Proposal, the Exchange noted that member organizations sending PSCN orders that executed at Nasdaq BX would pay an increased fee

In the 2017 Proposal, the Exchange noted that PSCN is designed to attract users to PSX, and that generally providing a discount to member organizations for PSCN executions will provide a greater incentive to member organizations to use PSX as a venue. The Exchange stated that assessing a lowered rate will encourage member organizations to interact with PSX liquidity, while also encouraging such participants to take advantage of the sophisticated routing functionality offered by PSX. Additionally, since PSCN does not re-route when it is locked or crossed by an away market, the Exchange also believed that increased use of PSCN would also increase displayed liquidity on PSX.[7]

Since the adoption of the reduced transaction fee for PSCN orders, the Exchange has not observed a change in the activity of member organizations that would indicate that the reduced PSCN fees are incentivizing member organizations to send additional order flow to the Exchange, or to increase additional displayed liquidity on the Exchange. Accordingly, the Exchange is discontinuing the $0.0026 fee for PSCN orders that execute on PSX or on other venues.

With this change, PSCN orders that execute on PSX will revert to the pricing that existed prior to the 2017 Proposal, and will be charged $0.0028–$0.0030 per share executed, depending on other applicable factors, *e.g.,* if the order is for a security that is listed on Nasdaq or NYSE, and whether the member meets the applicable volume thresholds.

Similarly, PSCN orders that execute on a venue other than PSX will revert to the pricing that existed prior to the 2017 Proposal, and will be charged $0.0030 per share executed at NYSE, $0.0000 per share executed at Nasdaq BX, and $0.0030 per share executed in other venues. Since the 2017 Proposal excluded PSKP orders from the $0.0026 fee, the transaction fees assessed for PSKP orders will remain the same.[8]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [12] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[13] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [14]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [15]

The Exchange believes that eliminating the current fee of $0.0026 per share executed for PSCN orders that execute on PSX or that execute on other venues is reasonable. The PSCN routing option is designed to attract users to PSX, and the current PSCN transaction fees, by extension, were designed to provide a greater incentive to member organizations to use PSX as a venue. Since the adoption of the current transaction fees for PSCN orders, however, the Exchange has not observed a change in the activity of member organizations that would indicate that the current PSCN fees are incentivizing member organizations to send additional order flow to the Exchange, or to increase additional displayed liquidity on the Exchange. Accordingly, the Exchange believes that it is reasonable to eliminate the current PSCN fees since those fees are not achieving their intended purpose.

With respect to orders that execute on PSX, the Exchange further believes the proposal is reasonable because the Pricing Schedule will no longer distinguish between PSCN orders and orders with other routing options.

In eliminating the current PSCN fees, the fees for PSCN orders will revert to the fees for PSCN orders prior to the 2017 Proposal. The Exchange has previously stated why it believes those fees are reasonable,[16] and continues to

of $0.0026 per share executed, instead of the then-current $0.0000 per share executed for those orders. The Exchange stated that this fee increase for PSCN orders that executed on Nasdaq BX would help offset the cost to the Exchange in offering the reduced fees for all other PSCN executions. *Id.*

[7] As noted above, the current transaction fee for PSCN orders does not include PSKP orders. When adopting the current transaction fee for PSCN orders (and the corresponding exclusion for PSKP orders), the Exchange noted that it had only limited funds to apply to the PSCN fees, which it was generally reducing. The Exchange noted that PSCN orders route to both venues with protected quotations and venues without protected quotations, which are often low-cost venues, based on the System routing table following the principal of best execution. By contrast, PSKP orders are routed only to venues with protected quotations, which typically assess the Exchange higher fees for execution thereon. Consequently, extending the proposed pricing to PSKP would result in significant cost to the Exchange in comparison to the proposed fee assessed for such executions. *See* 2017 Proposal, *supra* note 5.

[8] Specifically, the charge for a PSKP order that executes on PSX will range from $0.0028–$0.0030 per share, depending on the applicability of the other relevant factors set forth in the Pricing Schedule. A PSKP order that executes on a venue besides PSX will be charged $0.0030 per share executed at NYSE, $0.0000 per share executed at Nasdaq BX, and $0.0030 per share executed in other venues. Since a PSKP order is a subset of a PSCN order, the proposed change in the Pricing Schedule from ''PSKP'' to ''PSCN'' in the part of the Pricing Schedule relating to routing fees will cover both PSCN and PSKP orders.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[12] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[13] *See NetCoalition,* at 534–535.

[14] *Id.* at 537.

[15] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[16] *See* Securities Exchange Act Release No. 76631 (December 11, 2015), 80 FR 78797 (December 17, 2015) (SR–Phlx–2015–98) (adopting the current fees for transactions on PSX of $0.0029 per share executed in Nasdaq-listed securities, $0.0028 per share executed for NYSE-listed securities, and $0.0028 per share executed for executions in securities listed on exchanges other than Nasdaq and NYSE); Release No. 78027 (June 9, 2016), 81 FR 39078 (June 15, 2016) (SR–Phlx–2016–64) (adopting the current volume thresholds and the ''default'' fee for transactions on PSX of $0.0030 per share executed for orders for all other member organizations that execute on PSX); Release No. 71520 (February 11, 2014), 79 FR 9302 (February 18, 2014) (SR–Phlx–2014–09) and Release No. 74292 (February 18, 2015), 80 FR 9807 (February

Continued

believe such fees are reasonable. For example, the Exchange continues to believe that the current fees for orders that execute on PSX in securities listed on Nasdaq, NYSE or an exchange other than Nasdaq or NYSE are reasonable because they reflect the costs and benefits provided by the Exchange, including credits to market participants that provide beneficial liquidity to PSX, to the benefit of all of its participants.[17] Similarly, the Exchange believes that the fees for routing orders to other venues are reasonable because those fees are designed to incentivize member organizations to send orders and quotes to PSX, even if such orders ultimately execute on other venues.[18]

Finally, as discussed above, the transaction fees for a PSKP order, which is a subset of a PSCN order, remain unchanged.

The Exchange also believes that eliminating the $0.0026 fee for PSCN orders that execute on PSX and on other venues is an equitable allocation and is not unfairly discriminatory. With this change, member organizations that use PSCN orders may pay greater fees (*e.g.,* $0.0029 per share executed for an order in a Nasdaq-listed security that executes on PSX) or lower fees (*e.g.,* $0.0000 per share executed for an order that executes on Nasdaq BX) than pursuant to the current PSCN fees. However, the Exchange will apply the same fee to all similarly situated member organizations, *e.g.,* to all member organizations that execute an order in a Nasdaq-listed security on PSX. With respect to orders that execute on PSX, the Exchange further believes that the proposal is equitable and not unfairly discriminatory because the Pricing Schedule will eliminate the distinction between PSCN orders and orders with other routing options.

Further, this change will revert the fees for PSCN orders that execute on PSX and on other venues to their levels prior to the 2017 Proposal. The Exchange has previously stated that it believes those fees are equitable and not unfairly discriminatory,[19] and continues to believe such fees are equitable and not unfairly discriminatory. Specifically, the Exchange continues to believe that these fees reflect the costs and benefits provided by the Exchange, while also attempting to incentivize order flow to the Exchange.

Finally, as discussed above, the transaction fees for a PSKP order, which is a subset of a PSCN order, remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed changes to the charges assessed to member organizations for the execution of securities do not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The Exchange is eliminating the current PSCN fees because the Exchange has not observed that the current PSCN fees achieved their intended effect, *i.e.,* to incentivize member organizations to send additional order flow to the Exchange, or to increase additional displayed liquidity on the Exchange.

With the elimination of the current PSCN fees, this change will revert the fees for PSCN orders that execute on PSX and on other venues to their levels prior to the 2017 Proposal. The Exchange has previously stated that it does not believe that the fees in effect prior to the 2017 Proposal impose a burden on competition that is not necessary or appropriate,[20] and continues to believe that to be the case. Additionally, the Exchange will apply the same fee for PSCN orders to all similarly situated member organizations.

With respect to orders that execute on PSX, the Exchange also does not believe that the proposal will impose a burden on competition that is not necessary or appropriate because the Pricing Schedule will eliminate the distinction between PSCN orders and orders with other routing options.

Finally, the Exchange does not believe that the proposal will impose a burden on competition that is not necessary or appropriate because, as discussed above, the transaction fees for a PSKP order, which is a subset of a PSCN order, remain unchanged.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

24, 2015) (SR–Phlx–2015–14) (adopting the current fee of $0.0000 for PSCN orders that are routed to Nasdaq BX); Release No. 70874 (November 14, 2013), 78 FR 69725 (November 20, 2013) (SR–Phlx–2013–111) (adopting the current fee of $0.0030 per share executed for PSCN orders that are routed to NYSE or to other venues).

[17] *See* Securities Exchange Act Release No. 76631 (December 11, 2015), 80 FR 78797 (December 17, 2015) (SR–Phlx–2015–98).

[18] *See* Securities Exchange Act Release No. 70874, November 14, 2013, 78 FR 69725 (November 20, 2013) (SR–Phlx–2013–111).

[19] *See supra* note 16.

[20] *See supra* note 16.

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–21. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–21 and should be submitted on or before April 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05450 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 9b–1, SEC File No. 270–429, OMB Control No. 3235–0480.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 9b–1 (17 CFR 240.9b–1), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 9b–1 (17 CFR 240.9b–1) sets forth the categories of information required to be disclosed in an options disclosure document (''ODD'') and requires the options markets to file an ODD with the Commission 60 days prior to the date it is distributed to investors. In addition, Rule 9b–1 provides that the ODD must be amended if the information in the document becomes materially inaccurate or incomplete and that amendments must be filed with the Commission 30 days prior to the distribution to customers. Finally, Rule 9b–1 requires a broker-dealer to furnish to each customer an ODD and any amendments, prior to accepting an order to purchase or sell an option on behalf of that customer.

There are 15 options markets [1] that must comply with Rule 9b–1. These respondents work together to prepare a single ODD covering options traded on each market, as well as amendments to the ODD. These respondents file approximately 3 amendments per year. The staff calculates that the preparation and filing of amendments should take no more than eight hours per options market. Thus, the total time burden for options markets per year is 360 hours (15 options markets × 8 hours per amendment × 3 amendments). The estimated cost for an in-house attorney is $412 per hour,[2] resulting in a total internal cost of compliance for these respondents of $148,320 per year (360 hours at $412 per hour).

In addition, approximately 1,144 broker-dealers [3] must comply with Rule 9b–1. Each of these respondents will process an average of 3 new customers for options each week and, therefore, will have to furnish approximately 156 ODDs per year. The postal mailing or electronic delivery of the ODD takes respondents no more than 30 seconds to complete for an annual compliance burden for each of these respondents of 78 minutes or 1.3 hours. Thus, the total time burden per year for broker-dealers is 1,487 hours (1,144 broker-dealers × 1.3 hours). The estimated cost for a general clerk of a broker-dealer is $62 per hour,[4] resulting in a total internal cost of compliance for these respondents of $92,194 per year (1,487 hours at $62 per hour).

The total time burden for all respondents under this rule (both options markets and broker-dealers) is 1,847 hours per year (360 + 1,487), and the total internal cost of compliance is $240,514 ($148,320 + $92,124).

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

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Comments should be directed to (i) Desk Officer for the Securities and Exchange Commission,

[1] The fifteen options markets are as follows: The fifteen options markets are as follows: BOX Options Exchange LLC, Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Miami International Securities Exchange LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, the Nasdaq Options Market (NOM), NYSE Arca, Inc., and NYSE American LLC.

[2] SIFMA did its last annual survey in 2013 and will not resume the survey process. Accordingly, the $412 figure is based on the 2013 figure ($380) adjusted by the inflation rate calculated using the Bureau of Labor Statistics' CPI Inflation Calculator. The $380 per hour figure for an Attorney is from SIFMA's *Management & Professional Earnings in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[3] The estimate of 1,144 broker-dealers required to comply with Rule 9b–1 is derived from Item 12 of the Form BD (OMB Control No. 3235–0012). This estimate may be high as it includes broker-dealers that engage in only a proprietary business, and as a result are not required to deliver an ODD, as well as those broker-dealers subject to Rule 9b–1.

[4] The $62 figure is based on the 2013 figure ($57) adjusted for inflation. *See supra* note 1. As noted above, SIFMA did its last annual survey in 2013 and will not resume the survey process. Accordingly, the $62 figure is based on the 2013 figure ($57) adjusted for inflation. The $57 per hour figure for a General Clerk is from SIFMA's *Office Salaries in the Securities Industry 2013,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead. The staff believes that the ODD would be mailed or electronically delivered to customers by a general clerk of the broker-dealer or some other equivalent position.

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05522 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Credit Risk Retention—Regulation RR, SEC File No. 270–613, OMB Control No. 3235–0712.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Credit Risk Retention (''Regulation RR'') (17 CFR 246.1 through 246.22) recordkeeping and disclosure requirements implement Section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11) Section 15G clarifies the scope and application of Section 306(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7244(a)). Section 306(a) of the Sarbanes-Oxley Act requires, among other things, an issuer to provide timely notice to its directors and executive officers and to the Commission of the imposition of a blackout period that would trigger a trading prohibition under Section 306(a)(1) of the Sarbanes-Oxley Act. Section 306(a)(1) prohibits any director or executive officer of an issuer of any equity security, from directly or indirectly, purchasing, selling or otherwise acquiring or transferring any equity security of that issuer during the blackout period with respect to such equity security, if the director or executive officer acquired the equity security in connection with his or her service or employment. Approximately 1,647 issuers file using Regulation RR responses and it takes approximately 14.389 hours per response. We estimate that 75% of the 14.389 hours per response (10.792 hours) is prepared by the registrant for a total annual reporting burden of 17,774 hours (10.792 hours per response × 1,647 responses).

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

The public may view the background documentation for this information collection at the following website, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: March 14, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–05523 Filed 3–16–18; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10359]

Notice of Public Meeting

The Department of State will conduct an open meeting at 10:00 a.m. on Monday, April 16th, 2018, in Room 7M15–01, United States Coast Guard Headquarters, 2703 Martin Luther King Jr. Ave. SE, Washington, DC 20593–7213. The primary purpose of the meeting is to prepare for the 105th session of the International Maritime Organization's (IMO) Legal Committee to be held at the IMO Headquarters, United Kingdom, April 23–25, 2018.

The agenda items to be considered include:

—Facilitation of the entry into force and harmonized interpretation of the 2010 HNS Protocol
—Provision of financial security in case of abandonment of seafarers, and shipowners' responsibilities in respect of contractual claims for personal injury to, or death of seafarers, in light of the progress of amendments to the ILO Maritime Labour Convention, 2006
—Fair treatment of seafarers in the event of a maritime accident
—Advice and guidance in connection with the implementation of IMO instruments
—Piracy
—Matters arising from the 118th and 119th regular sessions of the Council, the twenty-ninth extraordinary session of the Council and the thirtieth regular session of the Assembly
—Technical cooperation activities related to maritime legislation
—Review of the status of conventions and other treaty instruments emanating from the Legal Committee
—Work programme
—Election of officers
—Any other business

Members of the public may attend this meeting up to the seating capacity of the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference, up to the capacity of the teleconference phone line. To access the teleconference line, participants should call (202) 475–4000 and use Participant Code: 887 809 72. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Stephen Hubchen, by email at *stephen.k.hubchen@uscg.mil,* by phone at (202) 372–1198, or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593–7509 not later than April 10, 2018, 4 business days prior to the meeting. Requests made after April 10, 2018 might not be able to be accommodated, and same day requests will not be accommodated due to the building's security process. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters. Coast Guard Headquarters is accessible by taxi, public transportation, and privately owned conveyance (upon request).

Additional information regarding this and other IMO public meetings may be found at: *www.uscg.mil/imo.*

Joel C. Coito,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2018–05480 Filed 3–16–18; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2017 Low or No Emission Grant Program Project Selections

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of project selections; Low or No Emission Grants Program announcement of project selections.

SUMMARY: The U.S. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects with Fiscal Year (FY) 2017 appropriations for the Low or No Emission Grants Program (Low-No Program). Federal transit law authorized $55 million for competitive allocations in FY 2017. On April 27, 2017, FTA published a Notice of Funding Opportunity (NOFO) announcing the availability of $55 million in competitive funding under the Low-No Program. These program funds will provide financial assistance to purchase or lease low or no emission vehicles that use advanced technologies, including related equipment or facilities, for transit revenue operations.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional Office for information regarding applying for the funds or program-specific information. A list of Regional Offices can be found at *www.fta.dot.gov.* Unsuccessful applicants may contact Tara Clark, Office of Program Management at (202) 366–2623, email: *Tara.Clark@dot.gov,* to arrange a proposal debriefing within 30 days of this announcement. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: In response to the NOFO (82 FR 19447), FTA received 128 proposals from 40 states requesting $515 million in Federal funds. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria outlined in the NOFO. FTA is funding 51 projects as shown in Table 1 for a total of $55 million, as authorized by Section 5339(c) of Title 49, United States Code.

Recipients selected for competitive funding should work with their FTA Regional Office to submit a grant application in FTA's Transit Award Management System (TrAMs) for the projects identified in the attached table to quickly obligate funds. Grant applications must only include eligible activities applied for in the original project application. Funds must be used consistent with the competitive proposal and for the eligible capital purposes established in the NOFO and described in the FTA Circular 5100.1.

In cases where the allocation amount is less than the proposer's total requested amount, recipients are required to fund the scalable project option as described the application. If the award amount does not correspond to the scalable option, for example due to a cap on the award amount, the recipient should work with the Regional Office to reduce scope or scale the project such that a complete phase or project is accomplished.

A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TrAMs application. Selected projects are eligible to incur costs under pre-award authority no earlier than the date successful projects were first publicly announced, September 15, 2017. Pre-award authority does not guarantee that project expenses incurred prior to the award of a grant will be eligible for reimbursement, as eligibility for reimbursement is contingent upon other requirements, such as planning and environmental requirements, having been met. For more about FTA's policy on pre-award authority, please see the FTA Fiscal Year 2017 Apportionments, Allocations, and Program Information and Interim Guidance found in 82 FR 6692 (January 19, 2017). Post-award reporting requirements include submission of the Federal Financial Report and Milestone Progress Reports in TrAMs as appropriate (see FTA.C.5010.1E). Recipients must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. Selected projects that include partnerships have satisfied the competitive procurement requirement through the competitive selection process. FTA emphasizes that all other recipients must follow all third-party procurement guidance as authorized by 49 U.S.C. 5325(a) and described in FTA.C.4220.1F. Funds are available for a period of 3 years. Accordingly, funds allocated in this announcement must be obligated in a grant by September 30, 2020.

K. Jane Williams,

Acting Administrator.

TABLE 1—FY 17 LOW OR NO EMISSION PROJECT SELECTIONS

State	Recipient	Project ID	Project description	Allocation
AK	Alaska Department of Transportation & Public Facilities.	D2017–LWNO–001	Purchase battery-electric buses, associated charging infrastructure and a back-up generator.	$408,130
AL	Alabama A&M University	D2017–LWNO–002	Purchase battery-electric buses and a charging station	1,000,000
CA	City of Fairfield	D2017–LWNO–003	Purchase battery-electric buses and charging infrastructure.	1,225,000
CA	City of Los Angeles, Department of Transportation.	D2017–LWNO–004	Purchase battery-electric buses with a capitalized lease for the battery, and install charging stations.	1,225,000
CA	Napa Valley Transportation Authority	D2017–LWNO–005	Purchase battery-electric buses and depot chargers	1,092,250
CA	Redding Area Bus Authority	D2017–LWNO–006	Purchase battery-electric buses, charging and maintenance equipment, and conduct staff training.	746,456
CA	Antelope Valley Transit Authority	D2017–LWNO–007	Purchase battery-electric buses and depot chargers	705,347
CO	State of Colorado Department of Transportation.	D2017–LWNO–008	Purchase battery-electric buses for three rural transit operators.	1,450,000
CT	Greater Bridgeport Transit Authority	D2017–LWNO–009	Purchase battery-electric buses, depot chargers, and conduct staff training.	1,450,000
DE	Delaware Transit Corporation	D2017–LWNO–010	Purchase battery-electric buses and on-route/depot charging equipment.	1,000,000
FL	City of Gainesville	D2017–LWNO–011	Purchase battery-electric buses and depot chargers	1,000,000
FL	Pinellas Suncoast Transit Authority	D2017–LWNO–012	Purchase battery-electric buses and on-route/depot chargers.	1,000,000
FL	The Jacksonville Transportation Authority.	D2017–LWNO–013	Purchase battery-electric buses and chargers	1,000,000

TABLE 1—FY 17 LOW OR NO EMISSION PROJECT SELECTIONS—Continued

State	Recipient	Project ID	Project description	Allocation
FL	County of Broward	D2017–LWNO–014	Purchase battery-electric buses and depot chargers	1,000,000
FL	City of Tallahassee	D2017–LWNO–015	Purchase battery-electric buses and on-route chargers	1,000,000
GA	Georgia Department of Transportation	D2017–LWNO–016	Purchase battery-electric buses and charging infrastructure.	1,750,000
HI	City and County of Honolulu	D2017–LWNO–017	Purchase battery-electric buses and depot chargers	1,450,000
IA	Des Moines Area Regional Transit Authority (DART).	D2017–LWNO–018	Purchase battery-electric buses and charging infrastructure.	1,450,000
ID	Mountain Rides Transportation Authority.	D2017–LWNO–019	Purchase battery-electric buses and fast charging station	500,000
IL	Bloomington-Normal Public Transit System.	D2017–LWNO–020	Purchase battery-electric buses and install solar panels to support charging infrastructure.	1,450,000
IL	Champaign-Urbana Mass Transit	D2017–LWNO–021	Purchase hydrogen fuel-cell electric articulated buses and hydrogen fueling infrastructure.	1,450,000
IN	Indianapolis Public Transportation Corporation.	D2017–LWNO–022	Upgrade electrical infrastructure at operations facility to charge electric buses.	1,450,000
KY	Transit Authority of Lexington (Lextran)	D2017–LWNO–023	Purchase battery-electric buses and two on-route charging stations.	1,000,000
LA	Capital Area Transit System	D2017–LWNO–024	Purchase battery-electric buses, depot chargers and on route fast charger.	500,000
LA	Lafayette City-Parish Consolidated Government.	D2017–LWNO–025	Purchase electric buses and overnight charging stations	500,000
MA	Massachusetts Department of Transportation.	D2017–LWNO–026	Purchase battery-electric buses and an energy storage system.	1,200,000
MD	Montgomery County Maryland	D2017–LWNO–027	Purchase battery-electric buses and depot chargers	1,750,000
MI	Mass Transportation Authority (Flint)	D2017–LWNO–028	Purchase battery-electric buses and charging stations	500,000
MN	Metropolitan Council/Metro Transit	D2017–LWNO–029	Purchase battery-electric buses and charging equipment	1,750,000
MO	Bi-State Development Agency	D2017–LWNO–030	Purchase battery-electric buses and charging equipment	1,450,000
MT	Missoula Urban Transportation District	D2017–LWNO–031	Purchase battery-electric buses and depot chargers	500,000
NC	City of Asheville	D2017–LWNO–032	Purchase battery-electric buses and chargers	633,333
NE	City of Lincoln, Nebraska	D2017–LWNO–033	Purchase battery-electric buses and charging stations	1,450,000
NJ	New Jersey Transit	D2017–LWNO–034	Purchase battery-electric buses, charging equipment and conduct staff training.	500,000
NM	City of Las Cruces	D2017–LWNO–035	Purchase battery-electric buses, depot chargers, and upgrade a maintenance facility.	1,450,000
NV	Tahoe Transportation District	D2017–LWNO–036	Purchase one battery-electric bus	850,000
NY	Rochester Genesee Regional Transportation Authority.	D2017–LWNO–037	Purchase electric buses, related maintenance equipment, and a charging system.	1,000,000
OH	Stark Area Regional Transit Authority	D2017–LWNO–038	Purchase hydrogen fuel-cell buses	1,750,000
OK	Central Oklahoma Transportation and Parking Authority.	D2017–LWNO–039	Purchase battery-electric buses and charging equipment, and conduct staff training.	797,550
OR	Oregon Department of Transportation	D2017–LWNO–040	Purchase battery-electric buses, depot chargers, and conduct staff training.	1,450,000
PA	Port Authority of Allegheny County	D2017–LWNO–041	Purchase battery-electric buses, charging stations, and associated training.	500,000
SC	South Carolina Department of Transportation.	D2017–LWNO–042	Purchase battery-electric buses and depot chargers	1,450,000
SC	Greenville Transit Authority	D2017–LWNO–043	Purchase battery-electric buses and chargers	1,450,000
TN	Nashville Metropolitan Transit Authority	D2017–LWNO–044	Purchase battery-electric buses and conduct staff training	500,000
TX	City of Lubbock/Citibus	D2017–LWNO–045	Purchase battery-electric buses and on-route/depot charging equipment.	1,750,000
TX	VIA Metropolitan Transit	D2017–LWNO–046	Purchase battery-electric buses, charging equipment, and conduct staff training.	1,750,000
UT	Utah Department of Transportation	D2017–LWNO–047	Purchase battery-electric buses and depot chargers	500,000
VA	Transportation District Commission of Hampton Roads.	D2017–LWNO–048	Purchase battery-electric buses and charging equipment	500,000
VT	Vermont Agency of Transportation	D2017–LWNO–049	Purchase battery-electric buses	480,000
WA	Kitsap County Public Transportation Benefit Area Authority.	D2017–LWNO–050	Purchase battery-electric buses and charging infrastructure.	1,000,000
WI	City of Madison	D2017–LWNO–051	Purchase battery-electric buses, depot chargers, and conduct staff training.	1,278,950

[FR Doc. 2018–05464 Filed 3–16–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0037]

Request for Comments on the Renewal of a Previously Approved Information Collection: Seamen's Claims, Administrative Action and Litigation

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information to be collected will be used to evaluate injury claims made by seamen working aboard government-owned vessels. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 17, 2017.

DATES: Comments must be submitted on or before April 18, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503. Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Michael Yarrington, (202) 366–1915, Office of Marine Insurance, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Seamen's Claims, Administrative Action and Litigation.

OMB Control Number: 2133–0522.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The information is submitted by claimants seeking payments for injuries or illnesses they sustained while serving as masters or members of a crew on board a vessel owned or operated by the United States. The filing of a claim is a jurisdictional requirement for MARAD liability for such claims. MARAD reviews the information and makes a determination regarding agency liability and payments.

Respondents: Officers or members of a crew who suffered death, injury, or illness while employed on vessels owned or operated by the United States. Also, included in this description of respondents are surviving dependents, beneficiaries, and/or legal representatives of the officers or crew members.

Affected Public: Individuals or households.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15.

Estimated Hours per Response: 12.5.

Annual Estimated Total Annual Burden Hours: 188.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: March 14, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–05499 Filed 3–16–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2018–0036]

Request for Comments on the Renewal of a Previously Approved Information Collection: Application for Waiver of the Coastwise Trade Laws for Small Passenger Vessels

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information to be collected will be used to process applications for waivers of the coastwise trade laws, and to determine the effect such waivers would have on United States vessel builders and United States-built vessel operators before granting or denying the waiver request. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 5, 2017.

DATES: Comments must be submitted on or before April 18, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW, Washington, DC 20503.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, 202–366–0760, Office of Cargo and Commercial Sealift, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *Michael.Hokana@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Waiver of the coastwise Trade Laws for Small Passenger vessels.

OMB Control Number: 2133–0529.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: Owners of small, foreign-built passenger vessels desiring a waiver of U.S. build requirement to operate commercially in the carriage of twelve passengers or less in domestic trade will be required to file a written application to the Maritime Administration (MARAD). The agency will review the application, post it for 30-days in the **Federal Register** to seek public comment, and then make a determination based on the record as to whether to grant the requested waiver or not.

Respondents: Small passenger vessel owners who desire to operate in the coastwise trade.

Affected Public: Business or other for Profit.

Estimated Number of Respondents: 138.

Estimated Number of Responses: 138.

Estimated Hours per Response: 1.

Annual Estimated Total Annual Burden Hours: 138.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

* * * * *

By Order of the Maritime Administrator.

Dated: March 14, 2018.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2018–05498 Filed 3–16–18; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1028

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code.

OMB Number: 1545–0058.

Form Number: 1028.

Abstract: Farmers' cooperatives must file Form 1028 to apply for exemption from Federal income tax as being organizations described in Internal Revenue Code section 521. The information on Form 1028 provides the basis for determining whether the applicants are exempt.

Current Actions: There are no changes being made to Form 1028 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time per Respondent: 71 hours, 53 minutes.

Estimated Total Annual Burden Hours: 3,594.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05555 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning application procedures for qualified intermediary status under final qualified intermediary withholding agreement.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application Procedures for Qualified Intermediary Status Under Section 1441; Final Qualified Intermediary Withholding Agreement.

OMB Number: 1545–1597.

Revenue Procedure Number: 2000–12 (Revenue Procedure 2000–12 is modified by Announcement 2000–50, Revenue Procedure 2003–64, Revenue Procedure 2004–21, and Revenue Procedure 2005–77.)

Abstract: This revenue procedure gives guidance for entering into a withholding agreement with the IRS to be treated as a Qualified Intermediary (QI) under regulation section 1.1441–1(e)(5). It describes the application procedures for becoming a QI and the terms that the IRS will ordinarily require in a QI withholding agreement. The objective of a QI withholding agreement is to simplify withholding and reporting obligations with respect to payments of income made to an account holder through one or more foreign intermediaries.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 88,504.

Estimated Number of Responses: 1,097,991.

Estimated Time per Respondent: 16 minutes.

***Estimated Time for a QI:* 2,093 hours.

Estimated Total Annual Burden Hours: 301,018.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05556 Filed 3–16–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3949–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Information Referral.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Information Referral.

OMB Number: 1545–1960.

Form Number: 3949–A.

Abstract: Form 3949–A is used by certain taxpayer/investors to wishing to report alleged tax violations. The form will be designed to capture the essential information needed by IRS for an initial evaluation of the report. Upon return, the Service will conduct the same back-end processing required under present IRM guidelines. Submission of the information to be included on the form is entirely voluntary on the part of the caller and is not a requirement of the Tax Code.

Current Actions: There are no changes being made to Form 3949–A at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households.

Estimated Number of Respondents: 215,000.

Estimated Time per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 53,750.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05512 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 1099–G, Certain Government Payments.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–6009, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Certain Government Payments.

OMB Number: 1545–0120.

Form Number: 1099–G.

Abstract: Form 1099–G is used to report government payments such as

unemployment compensation, state and local income tax refunds, credits, or offsets, reemployment trade adjustment assistance (RTAA) payments, taxable grants, agricultural payments, or for payments received on a Commodity Credit Corporation (CCC) loan.

Current Actions: There are no changes made to the form, this submission is for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Federal, state, local or tribal governments.

Estimated Number of Responses: 82,364,600.

Estimated Time per Response: 18 minutes.

Estimated Total Annual Burden Hours: 24,709,380.

The following paragraph applies to the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05521 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8932

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8932, Credit for Employer Differential Wage Payments.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke, at (202) 317–6009, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer Differential Wage Payments.

OMB Number: 1545–2126.

Form Number: Form 8932.

Abstract: Taxpayers use Form 8932 to claim the credit for eligible differential wage payments you made to qualified employees during the tax year. The credit is available only to eligible small business employers. The credit is 20% of the first $20,000 of differential wage payments paid to each qualified employee.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 21,100.

Estimated Time per Respondent: 2 hours 58 minutes.

Estimated Total Annual Burden Hours: 62,456.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05534 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning cooperative housing corporations.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to LaNita Van Dyke, at (202) 317–6009, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Cooperative Housing Corporations.

OMB Number: 1545–1041.

Regulation Project Number: T.D. 8316.

Abstract: Section 1.216–1(d)(2) of this regulation allows cooperative housing corporations to make an election whereby the amounts of mortgage interest and/or real estate taxes allocated to tenant-stockholders of the corporation will be based on a reasonable estimate of the actual costs attributable to each tenant-stockholders based on the number of shares held in the corporation.

Current Actions: There is no change to this existing regulation at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 2,500.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05513 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4810

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

OMB Number: 1545–0430.

Form Number: 4810.

Abstract: Fiduciaries representing a dissolving corporation or a decedent's estate may request a prompt assessment of tax under Internal Revenue Code section 6501(d). Form 4810 is used to help locate the return and expedite the processing of the taxpayer's request.

Current Actions: There are no changes being made to Form 4810 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, farms, and the Federal government.

Estimated Number of Respondents: 4,000.

Estimated Time per Respondent: 6 hours, 12 minutes.

Estimated Total Annual Burden Hours: 24,800.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05516 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Information Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at *Elaine.H.Christophe@irs.gov.*

FOR FURTHER INFORMATION CONTACT: Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form number, reporting or record-keeping requirement number, and OMB number (if any) in your comment. Requests for additional information, or copies of the information collection and instructions, or copies of any comments received, contact Elaine Christophe, at (202) 317–5745 at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *Elaine.H.Christophe@irs.gov.*

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments will become a matter of public record. Please do not include any confidential or inappropriate material in your comments.

We invite comments on: (a) Whether the collection of information is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including 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 the requested information.

The IRS is seeking comments concerning the following forms, and reporting and record-keeping requirements:

SUPPLEMENTARY INFORMATION:

1. *Title:* Heavy Highway Vehicle Use Tax Return.

OMB Number: 1545–0143.

Abstract: Form 2290 and 2290(SP) are used to compute and report the tax imposed by section 4481 on the highway use of certain motor vehicles. The information is used to determine whether the taxpayer has paid the correct amount of tax.

Current Actions: There are no changes being made to Form 2290 or 2290(SP) at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals or households.

Estimated Number of Responses: 1,209,000.

Estimated Time per Response: 22 hours, 26 minutes.

Estimated Total Annual Burden Hours: 27,120,040.

2. *Title:* Exemption From Withholding on Compensation for Independent (and Certain Dependent) Personal Services of a Nonresident Alien Individual.

OMB Number: 1545–0795.

Form Number: 8233.

Abstract: Compensation paid to a nonresident alien individual for independent personal services (self-employment) is generally subject to 30% withholding or graduated rates. However, such compensation may be exempt from withholding because of a U.S. tax treaty or the personal exemption amount. Form 8233 is used to request exemption from withholding. Nonresident alien students, teachers, and researchers performing dependent personal services also use Form 8233 to request exemption from withholding.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 75,617.

Estimated Time per Respondent: 9 hrs., 3 min.

Estimated Total Annual Burden Hours: 684,334.

3. *Title:* Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.

OMB Number: 1545–1073.

Form Number: 8801.

Abstract: Form 8801 is used by individuals, estates, and trusts to compute the minimum tax credit, if any, available from a tax year beginning after 1986 to be used in the current year or to be carried forward for use in a future year.

Current Actions: There are no changes to the burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 12,914.

Estimated Time per Response: 7 hours, 4 mins.

Estimated Total Annual Burden Hours: 91,173.

4. *Title:* Qualified Electric Vehicle Credit.

OMB Number: 1545–1374.

Form Number: Form 8834.

Abstract: Form 8834 is used to claim any qualified electric vehicle passive activity credit allowed for the current tax year. The IRS uses the information on the form to determine that the credit is allowable and has been properly computed.

Current Actions: There are no changes being made to the form.

Type of Review: Extension of a currently approved collection.

Affected Pubic: Individuals or households and businesses or other for-profit organizations.

Estimated Number of Respondents: 3,136.

Estimated Time per Respondent: 4 hours, 47 minutes.

Estimated Total Annual Burden Hours: 15,022.

5. *Title:* HSA, Archer MSA, or Medicare Advantage MSA Information.

OMB Number: 1545–1518.

Form Number: 5498–SA.

Abstract: This form is used to report contributions to a medical savings account as required by Internal Revenue Code section 220(h).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 9,167.

Estimated Time per Response: 10 min.

Estimated Total Annual Burden Hours: 1,559.

6. *Title:* Automatic Consent for Eligible Educational Institution to Change Reporting Methods.

OMB Number: 1545–1952.

Form Number: Rev. Proc 2005–50.

Abstract: This revenue procedure prescribes how an eligible educational institution may obtain automatic consent from the Service to change its method of reporting under section 6050(S) of the Code and the Income Tax Regulations.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 30.

Estimated Time per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 300.

7. *Title:* Designated Roth Contributions.

OMB Number: 1545–1992.

Regulation Project Number: REG–146459–05 (TD 9324).

Abstract: These final regulations provide guidance concerning the taxation of distributions from designated Roth accounts under qualified cash or deferred arrangements under section 401(k).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business, other for-profit organizations.

Estimated Number of Responses: 997,000.

Estimated Time per Response: 50 min.

Estimated Total Annual Burden Hours: 828,000.

8. *Title:* Mortgage Assistance Payments.

OMB Number: 1545–2221.

Form Number: Form 1098–MA.

Abstract: This form is a statement reported to the IRS and to taxpayers. It will be filed and furnished by State Housing Finance Agencies (HFAs) and HUD to report the total amounts of mortgage assistance payments and homeowner mortgage payments made to mortgage servicers. The requirement for the statement are authorized by Notice 2011–14, supported by Public Law 111–203, sec. 1496, and Public Law 110–343, Division A, sec. 109.

Current Actions: There were no changes made to the document that resulted in any change to the burden previously reported to OMB. We are making this submission to renew the OMB approval.

Type of Review: Extension to previously approved IC.

Affected Public: Individuals, Federal Government, State, Local, or Tribal Governments, and other Not-for-profit organizations.

Estimated Number of Respondents: 60,000.

Estimated Time per Respondent: 2 hours 50 minutes.

Estimated Total Annual Burden Hours: 170,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05520 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8621

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

OMB Number: 1545–1002.

Form Number: 8621.

Abstract: Form 8621 is filed by a U.S. shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount.

Current Actions: There are no changes being made to Form 8621 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and individuals.

*Estimated Number of Respo*nses: 1,333.

Estimated Time per Respondent: 48 hr. 44 min.

Estimated Total Annual Burden Hours: 64,971.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05515 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8717

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 8717, User Fee for Employee Plan Determination Letter Request.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at (202)317–6009, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or through the internet at *Lanita.VanDyke@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Form 8717, User Fee for Employee Plan Determination Letter Request.

OMB Number: 1545–1772.

Form Number: 8717.

Abstract: The Omnibus Reconciliation Act of 1990 requires payment of a ''user fee'' with each application for a determination letter. Form 8717 was created to provide filers the means to make payment and indicate the type of request.

Current Actions: There is no change to Form 8717.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization, and not-for-profit institutions.

Estimated Number of Responses: 39,000.

Estimated Time per Response: 11 Hours, 24 minutes.

Estimated Total Annual Burden Hours: 445,770.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 12, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05538 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8896

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), 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 information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Low Sulfur Diesel Fuel Production Credit.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Martha R. Brinson, at (202) 317–5753 or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Low Sulfur Diesel Fuel Production Credit.

OMB Number: 1545–1914.

Form Number: 8896.

Abstract: IRC section 45H allows small business refiners to claim a credit for the production of low sulfur diesel fuel. The American Jobs Creation Act of 2004 section 399 brought it into existence. Form 8896 will allow taxpayers to use a standardized format to claim this credit.

Current Actions: There are no changes being made to Form 8896 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 66.

Estimated Time per Respondent: 3 hr., 59 mins.

Estimated Total Annual Burden Hours: 260.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05549 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8820.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8820, Orphan Drug Credit.

DATES: Written comments should be received on or before May 18, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (202) 317–6038 or through the internet at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Orphan Drug Credit.

OMB Number: 1545–1505.

Form Number: 8820.

Abstract: Filers use this form to elect to claim the orphan drug credit, which is 50% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 67.

Estimated Time per Respondent: 5 hours, 12 minutes.

Estimated Total Annual Burden Hours: 348.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 13, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–05518 Filed 3–16–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0836]

Agency Information Collection Activity Under OMB Review: Agency Information Collection Activity: NVSBE Post-Engagement Survey

AGENCY: Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 18, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0836'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0836'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: NVSBE Post-Engagement Survey.

OMB Control Number: 2900–0836.

Type of Review: Reinstatement of a previously approved collection.

Abstract: The Office of Small and Disadvantaged Business Utilization (OSDBU) needs to measure the return on investment (ROI) the National Veteran Small Business Engagement provides to VA and its attendees. OSDBU intends to measure the efficiency of this event, learn how to fulfill its stakeholder's needs, and share

this information with potential attendees.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 163, on August 24, 2017, page 40231.

Affected Public: NVSBE attendees, to include federal employees, small business owners, commercial corporations, and prime contractors.

Estimated Annual Burden: 175 hours.

Estimated Average Burden per Respondent: 10.5 minutes.

Frequency of Response: Once per year.

Estimated Number of Respondents: 1,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–05444 Filed 3–16–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0704]

Agency Information Collection Activity Under OMB Review: DoD Referral to Integrated Disability Evaluation System (IDES)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 18, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0704'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 811 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0704'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: DoD Referral to Integrated Disability System (IDES) (VA Form 21–0819).

OMB Control Number: 2900–0704.

Type of Review: Revision of a currently approved collection.

Abstract: VA Form 21–0819 is used to gather the necessary information to determine eligibility for active duty service members who may be eligible for DoD Disability Evaluation Board and VA compensation. Without this information, determination of entitlement would not be possible.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 83 FR 7 on January 10, 2018, pages 1285 and 1286.

Affected Public: Individuals or Households.

Estimated Annual Burden: 3,500 hours.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 14,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk (OQPR), Department of Veterans Affairs.

[FR Doc. 2018–05443 Filed 3–16–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0821]

Agency Information Collection Activity: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Documents and Information Required for Specially Adapted Housing Assistive Technology Grant) and Scoring Criteria for SAH Assistive Technology Grants

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 18, 2018.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov* . Please refer to ''OMB Control No. 2900–0821'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461–5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility;

(2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 11–275; 38 U.S.C. 2108.

Title: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Documents and Information Required for Specially Adapted Housing Assistive Technology Grant), VA Form 26–0967 and Scoring Criteria for SAH Assistive Technology Grants, VA Form 26–0967a.

OMB Control Number: 2900–0821.

Type of Review: Extension of a currently approved collection.

Abstract: Title 38, U.S.C., chapter 21, authorizes a VA program of grants for specially adapted housing for disabled veterans or servicemembers. Section 2101(a) of this chapter specifically outlines those determinations that must be made by VA before such grant is approved for a particular veteran or servicemember. VA Form 26–0967 and VA Form 26–0967a are used to collect information that is necessary for VA to meet the requirements of 38 U.S.C. 2101(a). (Also, see 38 CFR 36.4402(a), 36–4404(a), and 36.4405).

Affected Public: Individuals and households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 120 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 20.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–05445 Filed 3–16–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0012]

Agency Information Collection Activity Under OMB Review: Application for Cash Surrender or Policy Loan

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 18, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0012'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0012'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: Public Law 104–13; 44 U.S.C. 3501–21.

Title: Application for Cash Surrender or Policy Loan VA Form 29–1546.

OMB Control Number: 2900–0012.

Type of Review: Reinstatement of a Previously Approved Collection.

Abstract: The Application for Cash Surrender or Policy Loan solicits information needed from Veterans to apply for cash surrender value or policy loan on his/her insurance. The information on this form is required by law, 38 U.S.C. 1906 and 1944, 38 CFR 6.115, 6.116, 6.117, 8.27, 6.100, 6.101 and 8.28. This form was allowed to expire due to high level of work volume and staffing changes.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 209 on October 31, 2017, page 50489.

Affected Public: Individuals and Households.

Estimated Annual Burden: 4,939 Hours.

Estimated Average Burden per Respondent: 10 Minutes.

Frequency of Response: Upon Request.

Estimated Number of Respondents: 29,636.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2018–05442 Filed 3–16–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Homeland Security

Coast Guard

33 CFR Parts 101, 104, 105, et al.

Consolidated Cruise Ship Security Regulations; Final Rule

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 101, 104, 105, 120, and 128

[Docket No. USCG–2006–23846]

RIN 1625–AB30

Consolidated Cruise Ship Security Regulations

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is issuing a final rule to eliminate outdated regulations that imposed unnecessary screening requirements on cruise ships and cruise ship terminals. This final rule replaces these outdated regulations with simpler, consolidated regulations that provide efficient and clear requirements for the screening of baggage, personal items, and persons on a cruise ship. This final rule will enhance the security of cruise ship terminals and allow terminal operators to use effective screening mechanisms with minimal impact to business operations.

DATES: This final rule is effective April 18, 2018.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2006–23846. To view public comments or documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Kevin McDonald, Inspections and Compliance Directorate, Office of Port and Facility Compliance, Cargo and Facilities Division (CG–FAC–2), Coast Guard; telephone 202–372–1168, email *Kevin.J.McDonald2@uscg.mil.*

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I. Abbreviations

AAPA American Association of Port Authorities
CFR Code of Federal Regulations
CLIA Cruise Lines International Association
COTP Captain of the Port
DoS Declaration of Security
FSO Facility Security Officer
FSP Facility Security Plan
FR Federal Register
MARSEC Maritime Security
MISLE Marine Information for Safety and Law Enforcement
MTSA Maritime Transportation Security Act of 2002
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
PIL Prohibited Items List
QPL Qualified Product List
§ Section symbol
SSI Sensitive Security Information
TSA Transportation Security Administration
TSI Transportation Security Incident
TSP Terminal Screening Program
TWIC Transportation Worker Identification Credential
U.S.C. United States Code
VSP Vessel Security Plan
VSL Value of Statistical Life

II. Executive Summary

The Coast Guard is amending its regulations on cruise ship terminal security by simplifying and removing outdated regulations located in 33 CFR parts 120 and 128. These parts prescribe requirements for passenger vessels and passenger terminals to develop and implement vessel security plans and terminal security plans. However, the enactment of the Maritime Transportation Security Act of 2002 (MTSA) largely superseded the requirements located in 33 CFR parts 120 and 128 with the requirements in 33 CFR Subchapter H, parts 104 and 105. As a result, parts 120 and 128 are now used only for their terminal security plan implementation requirements.

The final rule will improve regulatory clarity and efficiency by replacing the terminal screening procedures from parts 120 and 128 with updated terminal screening procedures laid out in the current MTSA regulations located in Subchapter H. The primary purpose of these changes is to provide more efficient and clear requirements for the screening of all baggage, personal items, and persons—including passengers, crew, and visitors—intended for carriage on a cruise ship, and enhance the security of cruise ship terminals, while minimizing disruptions to business operations. As a result, the changes will allow terminals an appropriate degree of clarity that accommodates and is consistent with their varying sizes and operations.

The final rule will also both clarify and simplify requirements to ensure all facilities maintain screening measures that meet a minimum standard. For example, while the terminal security plan requirements in part 128 merely required that owners or operators of a terminal facility ''[p]rovide adequate security training to employees of the terminal,'' [1] the new regulations both incorporate the existing MTSA training requirements located in section 105.210, as well as enumerate several terminal-specific items that clarify what knowledge base is needed to adequately ensure security.

Therefore, the final rule will establish clear, simplified, enforceable standards, consolidate the terminal security regulations in the Code of Federal Regulations, and ensure a consistent, minimum layer of security at cruise ship terminals throughout the United States with a minimal impact to business operations.

We estimate that this rule will affect 137 MTSA-regulated facilities, 131 cruise ships, and 23 cruise line companies. This rulemaking will have a one-time administrative cost for the development of a terminal screening program and for updating the FSP for the prohibited items list. We estimate the one-time cost for these updates to be about $158,660 (undiscounted).

A. Summary of NPRM

In the notice of proposed rulemaking (NPRM) (79 FR 73255, December 10, 2014), the Coast Guard proposed several changes to existing regulations on the screening of persons and their baggage at cruise ship terminals. The discussion below summarizes the proposed requirements. A more detailed discussion of the requirements can be found in the NPRM.

First, we proposed that cruise ship terminals revise their Facility Security

[1] 33 CFR 128.300(b)(4).

Plans (FSPs) to include a consolidated section on terminal screening, called the terminal screening program (TSP). Additionally, we proposed several requirements for TSPs, as laid out in proposed subpart E of 33 CFR 105 (§§ 105.500 through 105.550), that would impose clearer requirements on how a screening program should operate.

The proposed specific requirements of the TSP were minimal. Many of the requirements in subpart E are already contained in a terminal's existing TSP, as mandated by existing 33 CFR part 128, although these items are discussed in greater detail in the new subpart E. Additionally, the proposed subpart E included some new training and qualification requirements for screeners (such as familiarity with relevant portions of the TSP and FSP), requirements for screeners to participate in drills, and requirements for how screening equipment should be used if the screener chose to use it. In our analysis of cruise ship TSPs, we estimated that most, if not all, cruise ship terminals would already comply with the vast majority of the requirements in subpart E, and that the costs of compliance with the proposed rule would be largely limited to revising cruise ship terminal FSPs to meet the format requirements of subpart E. See the preliminary regulatory analysis (available in the docket under ''Supporting Documents'' at USCG–2006–23846–0029) for a more detailed discussion of the costs of the proposed rule.

Second, the Coast Guard proposed that cruise ship operators also meet certain new requirements in proposed § 104.295. Specifically, we proposed that cruise ship owners or operators be required to ensure that screening is performed in accordance with the screener qualification (new § 105.530), screener training (new § 105.535), and screening equipment (new § 105.545) provisions of Subpart E regardless of whether the screening is performed by a cruise ship terminal. Existing § 104.295 makes cruise ship owners and operators responsible for ensuring pre-embarkation screening, but does not refer to Subpart E. We note that the screening equipment regulations proposed in § 105.545 did not require the use of additional screening equipment, but only to regulate the way certain equipment would be used and maintained if the screener chose to employ it.

Third, the Coast Guard proposed to develop a Prohibited Items List (PIL) similar but not identical to that used by the Transportation Security Administration (TSA) at airports, which would define certain items that could not be brought on board a cruise ship by passengers on their persons or in checked luggage. Proposed § 105.515 required this PIL be posted at each screening location. In the NPRM, we explained that prohibiting the items listed on the PIL was not intended to be a new requirement, but an interpretation of the existing requirement, located in 33 CFR 104.295(a) and 105.290(a), that cruise ship and cruise ship terminal operators ''[s]creen all persons, baggage, and personal effects for dangerous substances and devices.'' Considering that the definition of ''dangerous substances and devices'' in 33 CFR 101.105 means ''any material, substance, or item that reasonably has the potential to cause a transportation security incident [TSI]'', we proposed to publish the PIL as an interpretive document indicating which items the Coast Guard believes are ''dangerous substances and devices'' at all times, while other items may or may not be considered such at the FSO's discretion. We noted that cruise ship operators were free to prohibit additional items on their vessels if they believed they were dangerous, or for any other reason, and noted that most cruise lines already advertised lists of prohibited items that are extremely similar to, if not more extensive than, the proposed PIL.

Finally, the Coast Guard proposed to remove 33 CFR parts 120 and 128 because provisions in those parts requiring security officers and security plans or programs for cruise ships and cruise ship terminals would be redundant with the provisions in 33 CFR subchapter H. We also proposed removing section 120.220, concerning the reporting of unlawful acts, as it is obsolete, and existing law enforcement protocols require members of the Cruise Lines International Association (CLIA) to report incidents involving serious violations of U.S. law to the nearest Federal Bureau of Investigation field office as soon as possible.

B. Overview of the Final Rule

The final rule amends the maritime security regulations, found in title 33 of the Code of Federal Regulations (33 CFR) subchapter H (parts 101 through 105), relating to TSPs in existing FSPs at cruise ship terminals within the United States and its territories. The final rule builds upon existing facility security requirements in 33 CFR part 105, which implements the Maritime Transportation Security Act of 2002 (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), codified at 46 U.S.C. Chapter 701.

We note that this rule only addresses screening procedures for persons boarding the vessel and their baggage. This rule does not address the screening of vessel stores, bunkers, or cargo. Similarly, it does not affect what items may be brought onto a cruise ship by the cruise ship operator, including items that passengers may check for secure storage with the cruise operator outside of their baggage. Requirements for security measures for the delivery of vessel stores, bunkers, and cargo exist and are found in 33 CFR 104.275, 104.280, 105.265, and 105.270.

This final rule also makes changes to the list of prohibited items proposed in the NPRM. The Coast Guard announces in this final rule the availability of the revised PIL in the regulatory docket for this rulemaking and on the Coast Guard's website at *https://homeport.uscg.mil.*

This rule does not include regulations that may be required pursuant to the Cruise Vessel Security and Safety Act of 2010 (CVSSA), Public Law 111–207 (July 27, 2010) (See RIN 1625–AB91) (CVSSA). Although this rule and the CVSSA are both concerned with cruise ship security generally, this rule consolidates and updates pre-boarding screening requirements while the CVSSA prescribes requirements in other areas, such as cruise ship design, providing information to passengers, maintaining medications and medical staff on board, crime reporting, crew access to passenger staterooms, and crime scene preservation training.

C. Summary of Costs and Benefits

We expect minimal cost impacts to industry and the public from this rulemaking since it incorporates current industry practices. We estimate that this rule will affect 137 MTSA-regulated facilities, 131 cruise ships, and 23 cruise line companies. While this rulemaking streamlines and clarifies the existing requirements regarding passenger screening, there will be a one-time administrative cost for the development of a terminal screening program and for updating the FSP for the prohibited items list. We estimate the one-time cost for these updates to be about $158,660 (undiscounted).

III. Basis and Purpose and Regulatory History

The Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1221 *et seq.*), authorizes the Secretary of the department in which the Coast Guard is operating to take certain actions to advance port, harbor, and coastal facility security. The Secretary is authorized under 33 U.S.C. 1231 to

promulgate regulations to implement 33 U.S.C. chapter 26, including 33 U.S.C. 1226. The Secretary has delegated this authority to the Commandant of the Coast Guard (DHS Delegation 0170.1(70) and (71)).

On December 10, 2014, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Consolidated Cruise Ship Security Regulations'' in the **Federal Register** (79 FR 73255). As described in more detail in the section of the NPRM entitled ''Development of 33 CFR Subchapter H'', the purpose of this rule was to require cruise ship terminal Facility Security Plans (FSPs) to follow an organized format that includes more aspects of screening, and to develop a Prohibited Items List for use when conducting screening of all persons, baggage, and personal effects at the terminal. This list would reduce uncertainty in the industry and the public about what is prohibited and what is not, and would help cruise ship facilities better implement the screening requirement in 33 CFR 105.290(a).

We provided an initial 3-month comment period for the proposed rule that was to close on March 10, 2015. However, on April 1, 2015, we published a Notice in the **Federal Register** (80 FR 17372) because we omitted from the docket the accompanying Regulatory Analysis. We reopened the comment period for a period of 60 days, until June 1, 2015 to allow commenters to read and comment on the detailed Regulatory Analysis if desired. We received 31 written submissions. Additionally, we held a public meeting at the Port Everglades Cruise Terminal in Hollywood, Florida on February 9, 2015, where 4 persons made oral statements.[2]

IV. Discussion of Comments and Changes

Comments generally fell into one of five overall categories, with the most prominent being questions related to requirements for small ports of call and the legal responsibilities of cruise ship terminals. We also received numerous comments related to screening requirements in the TSP, breaches of security, and the prohibited items list. In response to those comments, the Coast Guard has clarified and altered the final rule in a way that we believe will be less disruptive to the cruise ship experience, while still maintaining strong overall levels of security. In the subsections below, we summarize the comments received and discuss our specific responses.

A. Requirements for Cruise Ship Terminals vs. Ports of Call

The Coast Guard received numerous comments regarding the imposition of screening requirements on ports of call. As described in the NPRM proposed definition, ports of call are interim destinations where cruise ship passengers disembark the ship for shore excursions. We note that some commenters used the term ''port of call'' to describe any interim destination by a cruise ship, while others seemed to limit the term to facilities where a cruise ship would be serviced by tenders in lieu of docking directly.[3] Unlike at cruise ship terminals, passengers do not generally carry much if any baggage at ports of call, leaving most belongings on the cruise ship. As far as security measures go, security screening is rarely carried out at ports of call, and cruise ships generally check passengers when they return to the cruise ship to ensure that they have not brought back prohibited items from their shore excursions. The security arrangements made between a cruise ship and a port of call are generally implemented through a Declaration of Security (DoS), which details the respective security arrangements between the parties.

While the NPRM proposals were not specifically targeted at ports of call, commenters were concerned that ports of call were included in the proposed definition of ''cruise ship terminal[s]'', which was defined as ''any portion of a facility that receives a cruise ship or its tenders to embark or disembark passengers or crew.'' This definition, especially with the inclusion of the phrase ''or its tenders,'' meant that the scope of this rule would be vastly expanded beyond what is traditionally meant by a cruise ship facility, and would impose security screening requirements on owners and operators of ports of call that had previous delegated screening responsibilities to cruise ship operators.

The Coast Guard received a large number of comments from the operators of ports of call questioning many aspects of the proposed regulations. Many of these facility operators were concerned that the proposed cruise ship terminal requirements were inappropriate for use at ports of call that do not receive cruise ships, and that implementing these requirements would have substantial costs far above and beyond the modest expenditures presented in the preliminary regulatory analysis. Furthermore, operators of these ports of call suggested that implementing the cruise ship terminal security procedures would be redundant, because passengers are already screened when they return to the cruise ship.

To generally summarize, commenters on this issue believed that the Coast Guard was proposing to require that all ports of call conduct screening of passengers for prohibited items at the facility before passengers could re-board cruise ships. This would run contrary to existing arrangements, where screening is done on board the ship by cruise vessel security personnel.[4] Such would also likely entail significant costs to many facility operators, who would have to build out facilities and hire personnel in order to conduct screening, which might be duplicative of screening conducted on the vessel. As an overall response, the Coast Guard notes that this interpretation was based on a misunderstanding of the proposal. We did not intend to imply that terminal screening requirements would be expanded to ports of call, and we did not intend that ports of call would have specific screening requirements imposed by this rule.

In response to these comments, the Coast Guard has made several changes that we hope improve the clarity of the regulatory text. We have updated the definitions of ''cruise ship terminal'' and ''ports of call'' to clearly delineate between the two, and have included a new section 105.292 to make clear the specific responsibilities on ports of call. We have also added a new paragraph (a)(2) to § 104.295 to remove confusion about screening requirements at ports of call, and to make clear that arrangements where screening is conducted onboard the vessel do not need to be duplicated at the facility. We believe that by making these changes, we have addressed the concerns raised by commenters on this issue.

Below, we address the specific comments received on this issue, as

[2] This meeting was announced in the **Federal Register** on January 21, 2015 (80 FR 2839).

[3] In the NPRM discussion, we stated ''[d]uring visits at several cruise ship terminals, cruise ship embarkation ports, and ports of call, the Coast Guard witnessed various types of screening activities.'' The discrete listings of ''cruise ship terminals'' and ''ports of call'' indicated that cruise ship terminals and ports of call were separate. In the next sentence, however, we stated, ''[m]ost terminals use metal detectors and x-ray systems. . . and other terminals, normally ports of call, screen by hand,'' thus seeming to indicate that ports of call are a subset of cruise ship terminals (79 FR 73259). This inadvertent inconsistency may have contributed to commenters' misunderstanding the definition of ports of call.

[4] While we note that it would be legal for a screening to be conducted at the facility, rather than on the cruise ship, if specified in the DoS, we are not aware of any situations in which this is done.

well as the Coast Guard's responses to those issues. Given that many comments shared many themes as described above, we do not address each individual remark, but we do respond to specific comments and issues as they present nuance or unique questions on this topic.

The proposed rule was intended only to be applied to cruise ship terminals and not to ports of call. In the NPRM, we estimated the proposed rule would affect 23 cruise line companies, each of which maintains an FSP for each terminal that they use. Therefore, we stated the following: ''[W]e estimate that the proposed rule would require that FSPs at 137 MTSA-regulated facilities be updated. The proposed rule would require these facilities to add TSP chapters to their existing FSPs. This rule would also require owners and operators of cruise ship terminals to add a Prohibited Items List to current FSPs.'' 79 FR 73266. The Preliminary Regulatory Analysis (available in the docket at USCG–2006–23846–0029), which accompanied the NPRM, provided an explanation of what facilities would be affected by the rule. As stated above, the Coast Guard estimated that 137 facilities would be affected by this rule (see the Regulatory Planning and Review section below), which was based on the number of MTSA-regulated waterfront facilities that receive cruise vessels according to the Coast Guard Marine Information for Safety and Law Enforcement (MISLE) database (as of February 2009).

However, based on the responses in comments, it appears that this analysis may not have been considered by commenters regarding potentially affected facilities due to the proposed definition of ''cruise ship terminal.'' While the term ''cruise ship terminal'' is not explicitly defined under current regulations, if a cruise ship does not directly service a facility, but instead passengers are transported to and from the facility via small vessels known as tenders, then the Coast Guard does not consider the facility to be a ''cruise ship terminal.'' [5] In the proposed rule, commenters noted that this class of facilities would be swept into the category of cruise ship terminals, thus making them subject to both the existing and proposed requirements for cruise ship terminals under this rule.

A comment from the United States Virgin Islands (USVI) summed up this general concern, expressing strong concern that the proposed rule would eliminate the category of a ''Port of Call'' and force every destination at which a cruise ship calls to be considered a cruise ship terminal, ''with requirements for an on-shore screening facility at every location where passengers embark or disembark, rather than allow the screening to be conducted as passengers board at and by the ship.'' [6] The commenter suggested that the proposed rule would require installation and operation of screening facilities on the docks or shore, which would be unnecessary due to the existing screening done as the passengers board the ship. The commenter also provided several descriptions of various small facilities that receive cruise ship tenders, describing how they could incur substantial costs if they were forced to construct costly screening operation centers. We believe that the changes made to the regulatory text address these concerns by making clear that these ports of call would not be subject to the requirements for cruise ship terminals.

Many commenters, including many represented by the Passenger Vessel Association (PVA), also urged the Coast Guard to reconsider whether facilities that only receive cruise ship tenders should be defined as ''cruise ship terminals'' and be made subject to the associated regulations in 33 CFR 105.290. The PVA offered several examples of small facilities that receive cruise ship tenders only that would be ill-suited to screen passengers for dangerous substances and devices on their premises. The PVA instead suggested that ''[a] 'port of call' facility that simply receives cruise ship tenders, but not the cruise ship itself, should not be required to install and operate the screening equipment. That responsibility should lie with the cruise ship operator, and the rule should permit it to be performed at any location prior to boarding the cruise ship, not necessarily on the dock or pier.'' [7] [8]

Additional commenters raised PVA's concerns in the context of their specific situations. One commenter, a small seasonal company specializing in whale watch excursions, argued that ''tender ports should not be considered 'cruise ship terminals','' and that the current rules for tender ports provide effective security.[9] Noting that there is usually no building to store x-ray machines and other security apparatuses, the commenter states that the facility or ship generally provides simply a tent for passengers to stand under while checking IDs and bags. The commenter also noted that the cruise ships have x-ray machines and metal detectors at the boarding areas on board, thus indicating that imposing screening requirements on the facility would be both duplicative and expensive. Another commenter, from the city of Ketchikan, Alaska, suggested that there is no centralized location for screening in a facility that extends over a mile of downtown waterfront.[10]

Other commenters raised similar concerns, but did not limit themselves only to ports of call that serviced cruise ship tenders exclusively. The American Association of Port Authorities simply stated that many facilities that handle port of call visits from cruise ships have little or no infrastructure in place to conduct screenings, and that the rule must be rewritten so as to not impose significant economic burdens on those facilities.[11] The Cruise Line Agencies of Alaska stated that while there are only two cruise terminal facilities in the State, there are 25 ports of call, which have little or no accompanying shore-side terminal buildings.[12] This commenter noted that they currently conduct screening in coordination with the vessel moored at the facility in accordance with existing 33 CFR 105.290. The commenter argued that to ''construct the type of facilities referenced'' would cost between $2 and $3 million per facility, although they did not specify exactly what that would entail.[13] Another commenter, a port facility security officer in Alaska, echoed similar concerns, stating that at his port of call facility the docks are piers without structures on them, and that building such facilities would present an economic hardship.[14]

As indicated above, we have revised § 104.295 to make clear that arrangements where screening is

[5] We note that while there is no current definition of ''cruise ship terminal,'' the existing definition of ''passenger terminal,'' located in 33 CFR 120.110, is ''any structure used for the assembling, processing, embarking, or disembarking of passengers or baggage for vessels subject to [part 120]. It includes piers, wharves, and similar structures to which a vessel may be secured; land and water under or in immediate proximity to these structures; buildings on or contiguous to these structures; and equipment and materials on or in these structures.''

[6] United States Virgin Islands, Office of the Governor, comment, USCG–2006–23846–0022, p.2.

[7] Passenger Vessel Association comment, available in the docket at USCG–2006–23846–0025, p.3.

[8] We note that, contrary to the text of the comment, the proposed rule would not have required all cruise ship facilities to install and operate screening equipment, see proposed §§ 105.545 and 105.550.

[9] USCG–2006–23846–0016, p.1.

[10] USCG–2006–23846–0026.

[11] USCG–2006–23846–0013.

[12] USCG–2006–23846–0019.

[13] USCG–2006–23846–0019, p.2.

[14] USCG–2006–23846–0018.

conducted onboard the vessel do not need to be duplicated at the facility.[15] We note that with regard to the Alaskan ports of call referenced by these commenters, the facilities do not appear to be serviced by tenders, but the cruise ship docks at the facility. Thus, the mere retraction of the phrase ''or its tenders'' from the proposed definition of ''cruise ship terminal'' would not appear to alleviate their concerns. Thus, in the final rule text, while we are leaving the phrase ''or its tenders'' in the definition of cruise ship terminals, we have clarified in 104.295 that cruise ship terminal regulations do not apply to ports of call.

One commenter stated that proposed changes to the screening method in § 105.290(a) would impose significant costs on a small facility.[16] We believe that the commenter's focus on the proposed language in § 105.290 is misplaced, and that this comment relates more appropriately to the proposed change in the definition of ''cruise ship terminal.'' Specifically, this commenter may not have been subject to any cruise ship terminal requirements previously (as it would have been considered a port of call), and had the proposed change been finalized, would have become subject to § 105.290—along with other cruise ship terminal requirements—as a result of the proposed change to the definition.

The specific change to § 105.290(a) proposed to add the phrase ''in accordance with the requirements of subpart E of this part'' to the existing requirement that facilities ''Screen all persons, baggage, and personal effects for dangerous substances and devices.'' The commenter stated that at Maritime Security (MARSEC) Level 1, they perform random checks on the docks, and that the new rule would require that 100% of all passengers and crew would have to be checked before entering the docks. The commenter stated that this new requirement would be both costly and redundant. The commenter also stated that ''the new rule stipulates that 100% of all passengers and crew would be checked before putting a foot on our docks, before entering our facility [sic].''

We have several concerns with this comment. To begin, we note that both the existing and proposed regulatory text required that ''all'' persons be screened, so it appears that, if a facility was subject to the requirements of 33 CFR 105.290, random screenings would be a violation of both existing and proposed regulations. The new regulations add no additional language that could be interpreted as requiring more passengers to be screened than under the existing language. The commenter also states that the rule would dramatically increase costs—and cites the cost of screening all of the passengers and crew as an increased cost of the proposed regulation. Again, both the existing and proposed regulations require that facilities subject to § 105.290 require screening of all passengers, so this rule is not imposing new costs. Finally, the commenter states that all passengers would need to be screened before entering the facility, but we note that neither § 105.290 nor the proposed rule would require this (no citation was given in the comment).

Several commenters were concerned about the definition of ''cruise ship terminal'' pertaining to screening locations. The commenters argued that the NPRM proposed several changes that, combined, could be construed to require the physical location of screening to be located only at certain points prior to boarding a cruise ship. Specifically, in § 104.295(a)(1) (''Additional Requirements—Cruise Ships''), we proposed to add the phrase ''at the cruise ship terminal, or in the absence of a cruise ship terminal, immediately prior to embarking a cruise ship'' to the requirement that the operator of a cruise ship ensure the screening of all persons, baggage, and personal effects for dangerous substances and devices.

The preamble discussion of § 104.295 did not discuss any requirements for the physical location of screening, and stated that it was only adding language requiring cruise ship owners or operators to ensure screening is performed in accordance with the updated screening requirements. The NPRM preamble also stated that the Coast Guard anticipated that they would continue to coordinate screening with the cruise ship terminals.

Notwithstanding the preamble discussion, several commenters expressed concern, related to the language in § 104.295(a)(1) and to the proposed definition of ''cruise ship terminal,'' that the changes in the proposed rule would force changes to the screening location that could increase costs, create duplication, and possibly harm security. One commenter stated that the requirement that passengers be screened at ports of call was duplicative, as they must also be screened upon boarding the cruise ship as specified in the ship's VSP.[17] A second commenter noted that the proposed language in § 104.295(a)(1), particularly the phrase ''in the absence of a terminal,'' conflicts with the new definition of ''cruise ship terminal,'' which would include any facility that receives cruise ships or their tenders.[18]

We agree with the overall assertion made by the commenters. Reading the proposed expansive definition of cruise ship terminal, along with the phrasing of § 104.295(a)(1) which, in the proposed text, would have required screening ''at the cruise ship terminal, or in the absence of a terminal, immediately prior to embarking on a cruise ship'', would create duplicative screening requirements. We also agree that the proposed definition of ''cruise ship terminal'' would make the phrase ''in the absence of a terminal'' (in proposed § 104.295(a)(1)) a logical impossibility. Both of these items are addressed by the changes to the definition of cruise ship terminal and the changes to § 104.295(a)(1) in this final rule. As stated at the start of this section, the new definition of cruise ship terminal limits the definition to facilities to the point where the cruise vessel begins or ends its voyage, thus excluding ports of call, where security screening is conducted on the vessel (or at a facility, if detailed in a DoS) pursuant to the requirements in § 104.265(f)–(g), as detailed in its VSP. Similarly, the new text in § 104.295(a)(1) replaces the wording that would have required screening ''at the cruise ship terminal, or in the absence of a terminal, immediately prior to embarking a cruise ship'' with the phrase ''prior to entering the sterile (or secure) portion of a cruise ship''. These changes allow the existing arrangement, where passengers returning to a cruise ship at a port of call, may be screened upon entering the vessel, to continue.

However, we disagree with an assertion by the second commenter that ''docks'' should not be considered ''facilities.'' This commenter stated that some cruise ships routinely use ports that simply have docks that are used for port calls, which should not be considered ''terminals'' or even ''facilities''. The commenter also states that these ports do not have the room or infrastructure to support screening areas, but that the cruise ships visiting these ports do, and currently screen all passengers. We note that we would consider a dock where cruise ship passengers embark or disembark to be a ''facility'' based upon the definition of

[15] Or, in a hypothetical situation in which screening was performed at the facility, it would not need to be duplicated on the ship.

[16] USCG–2006–23846–0014, p.1–2.

[17] USCG–2006–23846–0014, p.2.

[18] USCG–2006–23846–0027, p.1.

''facility'' in 33 CFR 101.105.[19] To be more specific regarding this particular dock, the Coast Guard would consider it a ''port of call'' based on the fact that cruise ships make a scheduled stop at this facility in the course of their voyage.

The Cruise Lines International Association (CLIA) expressed concern that the proposed rule's requirement in § 104.295(a)(1), relating to the required screening location, was inappropriate for smaller terminals. CLIA noted that for many terminals, ''screening is conducted onboard cruise ships in the absence of appropriate facilities at a terminal'', and noted that ''some embarkation/disembarkation ports are not equipped to conduct screening prior to a passenger boarding.'' [20] CLIA suggested several additions to the regulations that could increase the flexibility for cruise ship facilities in situations like this. One suggestion was to amend § 104.295 from ''immediately prior to embarking a cruise ship'' to ''immediately prior to entering the sterile (or secure) portion of a cruise ship,'' which would allow the mandated screening to take place on the vessel.

CLIA made two other suggestions related to part 105. The first was to add the phrase ''where screening is performed at the cruise ship terminal'' to the proposed requirement in § 105.500(a) (''Applicability''),[21] and the second suggestion was to amend § 105.550 (''Alternatives'') to allow for alternative screening locations in addition to alternative screening equipment. They stated that these changes to the regulations would allow cruise ship terminals to locate screening facilities where most appropriate, as well as have screening performed on the vessel if done in accordance with a DoS. However, we note that the requested changes to subpart E are rendered unnecessary by the changes to the definition of ''cruise ship terminal'' and the revision of the definition for ''port of call,'' along with the new text in §§ 104.295 and 105.292.

CLIA also expressed concern that the security-related familiarization for screeners, in § 105.535, may be a burden because the expectation that screeners are aware of historic and current threats to the industry may be unrealistic, especially without an authoritative source pointing to those threats. In response to this, we note that the particular requirements in § 104.295, which would require the vessel to screen ''in accordance with the qualification, training, and equipment requirements of §§ 105.530, 105.535, and 105.545,'' would be unlikely to significantly impact training operations. The requirements referenced consist of basic training and qualification requirements, and § 105.545 only mandates that screening equipment, if used, must be used in accordance with general maintenance and signage requirements. With regard to familiarization, we would interpret it to mean familiarity with what items are prohibited, and common means in which they may be hidden on a person. We expect that all security screeners are given this training, which is why we have not considered it to be an added burden in this final rule.

Additionally, one commenter stated that the proposed regulations would go beyond the International Maritime Organization's International Ship and Port Facility Security Code requirements,[22] and that foreign-flagged cruise ships are not required to comply with these additional vessel security regulations. The commenter argued that some cruise ships, particularly foreign-flagged ships, may not have the room or capability to screen at the levels described in the proposed rule. Thus, the commenter argued, the liability to perform the necessary screening would by default fall on the facility, with ports of call being affected far more than cruise ship terminals. We believe that by clarifying the particular responsibilities of ports of call in new § 105.292, in contrast to the requirements for cruise ship terminals, we have made clear that ports of call are free to continue screening operations in conjunction with vessels. As a result, these foreign-flagged cruise vessels will only be required to meet the limited requirements in §§ 105.530, 105.535, and 105.545 of subpart E, which we believe they already do. The same commenters pointed out that several provisions of the proposed rule, particularly the definition of ''cruise ship terminal,'' but also proposed 33 CFR 104.295, had the effect of regulatory changes that were not anticipated or desired by the Coast Guard. As stated in our preamble and economic analysis, the intent of this rulemaking action is to provide more detailed regulatory requirements for cruise ship screening operations and the associated TSP than are currently provided in parts 120 and 128, as well as to include the requirements for a PIL in the regulations. We do not believe that commenters took issue with what was the original intent of the NPRM, but rather the unintended changes based on the wording of the proposed regulatory text.

In summary, based on the comments received, this final rule contains several changes from the proposed rule pertaining to requirements for cruise ship terminals and ports of call. The paragraphs below describes those changes in detail.

First, to alleviate the confusion expressed by many commenters, we are adding a definition of ''cruise ship terminal'' that reflects the common understanding of the difference between a ''terminal'' and a ''port of call.'' Cruise ship terminals are where passengers embark or disembark at the beginning and end of the voyage, while ports of call are intermediate stops during the voyage. The requirements of subpart E primarily apply to cruise ship terminals, while ports of call are simply subject to the existing requirements that the screening and other security arrangements be coordinated with the vessels. We are also modifying the definition of ''port of call'' by adding the phrase ''or its tenders'' to the existing definition, and adding a specific regulatory requirement (located in new § 105.292) to ensure cruise vessels screen all persons, baggage, and personal effects for dangerous substances and devices prior to entering the sterile (or secure) portion of a cruise ship. The primary change to the regulations with regard to ports of call, unchanged from the proposed rule, will be the requirement that the PIL be used and displayed during the screening process.

Additionally, we are amending the proposed language in § 104.295 to remove the screening location requirement from the regulations. We agree with commenters that this language would cause problems for facilities where screening is performed on a cruise ship, and it was not our intent to impose a requirement for a redundant screening procedure. Instead, we are incorporating in new § 104.295(a)(2) a version of the existing language from 33 CFR 120 which allowed the vessel owner or operator to work with the owner or operator of a port of call to ensure that all passengers were screened. We believe that the addition of this language will make clear that the existing arrangements

[19] *Facility* means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the U.S. and used, operated, or maintained by a public or private entity, including any contiguous or adjoining property under common ownership or operation.

[20] Cruise Lines International Association comment, USCG–2006–23846–0023, p.2.

[21] Thus, § 105.500(a) would read, ''The owner or operator of a cruise ship terminal must comply with this subpart when receiving a cruise ship or tenders from cruise ships where screening is performed at the cruise ship terminal.''

[22] USCG–2006–28615–0019, p.2.

between ports of call and cruise ships, in which screening is conducted upon re-boarding the cruise ship, remains an acceptable means of compliance with this part.

We believe that these changes are responsive to the comments received above and better reflect the goals of the Coast Guard in this rulemaking. With these regulations in place, we are accomplishing three things. First, we are improving and standardizing screening procedures at cruise ship terminals, where the bulk of baggage is examined, to ensure that items that pose a risk of causing a TSI are prevented from being brought onto the vessel at those points. Second, we are clarifying through the use of the PIL which items must be prohibited, and ensuring that this information is disseminated to passengers and crew, not just at terminals, but also at ports of call and on vessels. Finally, we are clarifying the requirements for specific aspects of screening that Coast Guard believes are vital, including procedures, training, and reporting, as opposed to the more general requirements of the existing parts 120 and 128, to provide a minimum baseline requirement that ensures cruise ships remain a safe and secure environment.

B. Legal Responsibility for Terminal Screening Program

Generally, commenters were concerned that the rule could make cruise ship terminal owners responsible for terminal screening operations, and therefore liable for civil monetary penalties, even if those operations were conducted by an independent cruise ship terminal operator or by the cruise ship operator. Commenters stated that in many cases responsibilities for passenger screening were delegated from the cruise ship terminal to another party, often the cruise ship operator. Cruise ship terminal operators argued that the proposed regulations, if not clarified, could impose responsibility for security and screening on the owner or operator of the cruise ship terminal. One commenter, a Port Authority, noted that § 104.295(a)(1) holds the ''owner or operator of the vessel'' responsible for ensuring that the screening takes place. The commenter suggested that the Coast Guard include statements that the current system of assignment of screening responsibility is acceptable and may continue, and that the terminal owner or operator is not responsible for screening operations unless specifically noted in security plans.

The American Association of Port Authorities (AAPA) made several comments that related to the responsibility for ensuring screening practices are carried out properly. They stated their concern that the proposed regulations, as written, ''do not account for the transfer of responsibility for security [from the terminal operator to the cruise ship operator] on cruise days,'' and that the language ''would impose full responsibility for security and screening on the owner and operator of a cruise ship terminal.'' The AAPA requested that the regulations be clarified or revised to impose the enhanced security obligations on the entity exercising security duties at the cruise ship terminal on cruise days, and that imposing obligations on the terminal owner who does not control security functions is redundant and would impose a significant financial burden.

Similarly, another commenter stated that the language in § 105.510, ''Screening responsibilities of the owner or operator,'' is not flexible enough. The commenter suggested that enough flexibility must be written into the final rule to allow terminal owners to enter into agreements with terminal operators that define responsibility for compliance with these requirements.

Several other commenters expressed concern regarding the perceived change in responsibility. One commenter argued that there were unintended consequences in transferring the responsibility for screening of passengers from the cruise lines, which are willing and capable, to smaller jurisdictions that are not equipped to do so. Another commenter stated that the proposed rule needs clarification on the transfer of responsibility for security and screening on cruise days, noting that the operator of the terminal may switch control on those days. One commenter, who operates a cruise facility in Miami, described such a mode of operation. Another operator of a cruise ship terminal requested that the regulation language allow terminal ''owners'' to enter into agreements with terminal ''operators'' that define responsibilities for compliance with the screening requirements.

While we do not believe that the language in the proposed regulation would have imposed additional responsibilities on terminal owners or operators, the Coast Guard nonetheless would like to respond to these concerns and clarify this in the final rule. In the NPRM, the Coast Guard did not discuss any intent to redistribute legal responsibility. Under both the existing regulations and the proposed regulatory text, the cruise ship terminal operator would be responsible for ensuring that terminal screening operations are carried out in a proper manner. Under the existing regulatory text, one acceptable way for the owner or the operator of a cruise ship terminal to accomplish this is through coordination with the cruise ship operator and delegation of screening operations to that entity. The existing language in 33 CFR part 128, ''Security of Passenger Terminals'' (which also applies to cruise ship terminals), addresses this matter. Existing § 128.200(b) provides that ''you'' must work with the operator of each passenger vessel subject to 33 CFR part 120, to provide security for the passengers, the terminal, and the vessel. Those terminals need not duplicate any provisions fulfilled by the vessel unless directed to by the Captain of the Port. Additionally, when a provision is fulfilled by a vessel, the applicable section of the Terminal Security Plan must refer to that fact.

We emphasize that ''you'' is defined in § 128.110 as ''the owner or operator of a passenger terminal.'' We also note there is a reciprocal passage in § 120.200(b) pertaining to the legal responsibilities of passenger vessels.

Thus, the existing regulations place the requirements for the TSP on the owner or operator of a passenger terminal, and the proposed regulatory text referred to by the commenters (in §§ 105.500, 105.505, and 105.515) uses functionally identical language (''the owner or operator of a cruise ship terminal''). Based on the existing language in 33 CFR 128.200(b), the owner or operator of a terminal could meet its TSP requirements by having certain provisions fulfilled by a vessel, assuming the TSP referred to that fact. We believe the commenters' concerns resulted from the removal of the sections, in parts 120 and 128, which explicitly stated that the responsibilities of vessels and terminals could be handled through cooperative means if specified in the respective security plans. In response to the comments received, we are incorporating that language into the text of parts 104 and 105 (see §§ 104.295(a)(2) and 105.292(a)), to acknowledge that the current system remains unchanged.

One commenter stated that the way the security screening process works at his port is that the facility signs a DoS agreement with the ship, and the DoS identifies who is responsible for security throughout the process. The commenter stated that ''the facility people would usually agree to be responsible for the facilities [sic] security and the ship crew are responsible for their own ship.'' [23] We

[23] USCG–2006–23846–0016, p.3.

acknowledge that such a system is still permissible under the final rule, and believe that incorporating the language contained in parts 120 and 128 into the text of parts 104 and 105 (specifically section 104.295(a)(2) and section 105.295(a)) clarifies this type of arrangement. Another commenter noted that several items from proposed subpart E (§ 105.505(c)(2) and (c)(6), and § 105.510(c)), appear to indicate that specific screening responsibilities can be delegated in the DoS, as is currently permitted. We note that this is correct.

The AAPA laid out several scenarios detailing how security responsibilities may be shared between the facility and cruise ship at different types of ports. We believe that all of them are addressed by the changes in this final rule.

In the first scenario, the cruise line leases the entire terminal facility from the port authority. The cruise line will have its own FSP for the leased terminal, and will have the legal responsibility to screen for dangerous substances and devices for the terminal and the vessel.

In the second scenario, the AAPA states that a port authority may operate the cruise ship terminal, and would itself handle the security of the facility. Both of these situations would be acceptable means of complying with §§ 104.295 and 105.290, assuming that the division of responsibilities was laid out in a DoS and detailed in the relevant security plans. We note that in the first scenario, as the facility owner, a terminal operator could be liable if security measures were not maintained, and if it was discovered that the terminal operator did not properly ensure compliance by working with a cruise ship operator as required in § 105.290(a). We note that language, adapted from § 128.200(b), has been added to subsection 105.290(a) to improve clarity.

In the third scenario, a port authority may outsource the operation and security for cruise operations to a third party, who would control the FSP. In this case, the AAPA argues that the port authority could be exposed to civil penalties under the proposed rule. We agree that in this scenario a port authority, as the owner of a cruise ship terminal, could be held responsible for inadequate security procedures if they did not properly ensure that the third party, given control of the terminal by the port authority, conducted screening operations pursuant to subpart E. In such a scenario, the third party, as the operator of a cruise ship terminal, could also face penalties.[24] We believe that it is proper that both owners and operators be held to these standards to ensure that screening procedures are carried out properly.

In the fourth scenario, cruise ships conduct screening and maintain legal liability. Under the regulations specific to ports of call that we have added in § 105.292, which include the adapted language from existing § 128.200(b), ports of call could continue to rely on cruise ships to conduct screening. A port of call could be subject to legal liability if it did not complete a DoS and ensure that the cruise ship operator was conducting the required screening. We believe this is an appropriate incentive to ensure that screening is provided.

C. Screening Procedures and Requirements

The Coast Guard received a number of comments relating to the specific screening requirements laid out in proposed subpart E. These comments contained questions related to the training and certification of screeners, the use of screening equipment, requirements in cases of breaches of security, and other items. In this section, we address the specific issues relating to the technical and operational aspects of the proposed screening requirements. While many comments addressed both technical questions as well as issues relating to the operational capacities of small ports of call, we note that the issue with ports of call has been addressed extensively in section A above.

In the NPRM, we laid out the specific proposed screening requirements in subpart E of part 105, ''Facility Security: Cruise Ship Terminals.'' This subpart contained a requirement to develop a TSP as part of the FSP, as well as detailing specific operational, training and qualification, and equipment requirements. We received numerous comments requesting clarification and amendments of these parts, which are addressed below.

One commenter asked questions relating to § 105.530, ''Qualifications of Screeners,'' in which the Coast Guard had proposed that screeners must have a combination of education and experience deemed sufficient by the Facility Security Officer (FSO) in order to perform the duties of the position, and that screeners are capable of using all methods and equipment needed to perform their duties. The commenter took issue with these requirements, and suggested that we require proof of certification to operate each type of screening equipment. The commenter suggested that such a system could be similar to that required in the Private Charter Standard Security Program, which is a particular privately-run program for security compliance.

While we have considered a more specific requirement, such as that used by the Private Charter Standard Security Program, we have decided to use a more general, and thus more flexible, standard for this rule. Because this rule does not impose specific equipment or methodologies for screening, writing certification requirements into regulation could severely restrict the options used at ports. Given the wide differences in the way cruise ship terminals are used, set up, and operated, we believe that giving the FSO the discretion and responsibility for determining which qualifications are necessary to adequately perform the required duties is the best course of action.

The commenter also questioned whether the training requirements for screeners, laid out in proposed § 105.535, would be demonstrated through self-certification or from a certified provider. The commenter suggested that, much as FSOs must have a certification pursuant to section 821 (''Port Security Training and Certification'') of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281, October 15, 2010), screeners should also be required to be certified by a provider rather than self-certify, arguing that self-certification fails to establish a minimum level of required training and competency.

We note that nothing in § 105.210 requires certification, either self-certification or third-party certification, and furthermore we note that the items in § 105.535 are facility-specific. As to whether third-party certification could be a viable alternative to the current method, we believe that it would be impractical for a certification provider to develop and provide certifications relating to facility-specific issues. We continue to believe that the familiarization requirements set forth in § 105.535 are best documented in the TSP, as set forth in § 105.505(c)(5) (the documentation requirement for procedures to comply with § 105.535 regarding training of screeners).

Several commenters also raised the issue of the discovery of prohibited items during the screening process. In § 105.515(d), we proposed the following text: ''Facility personnel must report the discovery of a prohibited item

[24] In deciding against whom to assess civil monetary penalties under MTSA, the Coast Guard attempts to assign the penalties to the party whose negligence or malfeasance caused the violation.

introduced by violating security measures at a cruise ship terminal as a breach of security in accordance with § 101.305(b) of this subchapter.'' The commenter argued that the discovery of prohibited items during the screening process must not be treated as a breach of security, but rather treated in accordance with local law enforcement practices, which may include such remedies as confiscation or disposal of the prohibited item. Only if the item is discovered in the secure area of the cruise ship terminal should it be treated as a breach of security pursuant to § 101.305(b). We agree with the commenter, and in fact this was our intention. Therefore, we are modifying the text of this section to clarify that fact by adding a sentence noting that a prohibited item discovered during security screening is not considered a breach of security.

Additionally, one commenter requested clarification that an occurrence of a reportable breach of security is not, in itself, a basis for a civil or criminal penalty under § 101.415 as a breach of security is distinct from a violation of the requirements applicable to cruise ship terminal owners and operators. We agree with this analysis, although we also note that reporting a breach of security does not negate a violation of the cruise ship terminal's security requirements, if they were not properly carried out.

Another commenter also expressed confusion regarding the language in § 105.515(d). This commenter noted that some prohibited items, such as bleach, may be properly located in the ship's stores, which is a secure area. They stated that this may be confusing for facility security personnel and Coast Guard officers, ''especially if a facility is not designed with space for separate areas.'' [25] We assume that this last phrase means that there is a single space for ship's stores and screened passenger baggage. In such a case, we hope that the cruise ship operator is able to distinguish between items in the ship's stores and items brought on board by passengers. If unable to, such an operator may wish to create separation between the two storage areas. As noted above, items contained in ship's stores are not subject to the restrictions in this section, which only apply to items brought on board by passengers. If an item properly brought on board as part of the ship's stores is ''discovered'' in a secure area, it would not constitute a breach of security. We note the proposed language makes this distinction clear, as it reads ''facility personnel must report the discovery of a prohibited item *introduced by violating security measures*'' as a breach of security (emphasis added). Items brought on board by legal means, such as ship's stores, do not fall under this category.

One commenter requested clarification that the screening processes are not required upon entrance to the cruise ship terminal, but rather that screening measures should be in place only when passengers attempt to gain access to a secure area of the terminal. Another commenter suggested that the Coast Guard would require screening processes be in place at the time a person or baggage enters the cruise ship terminal. The former interpretation is correct, and we believe the regulatory text is already clear on this point. Note that the only requirement regarding the location of screening is in § 105.525(a)(1), which reads, ''each cruise ship terminal must have at least one location to screen passengers and carry-on items prior to allowing such passengers and carry-on items into the secure areas of the terminal designated for screened persons and carry-on items.'' Similarly, the complementary requirement in § 104.295(a)(1) only requires that screening take place prior to entering the sterile or secure portion of the cruise ship.

One commenter stated that screening equipment that has been determined to meet the TSA's Qualified Product List (QPL) would be appropriate for use under § 105.545, which sets basic standards for screening equipment. The commenter also suggested that products on the QPL could be optimized for the cruise ship industry. We agree that products on the QPL have undergone significant testing and refinement, but we disagree with the suggestion that we refer to the QPL directly because in this rule we are attempting to maintain as much flexibility as possible. Therefore, we have limited the requirements to compliance with 49 CFR 1544.211 (TSA requirements for use of X-ray systems), as well as FDA safety requirements.

D. Prohibited Items List (PIL)

Commenters raised a variety of concerns regarding the PIL, including the posting of the PIL, clarification of specific terms on the PIL, requests to add or delete items from the PIL, and application of the list to persons other than passengers. These concerns are addressed below.

One commenter suggested that there should be an exemption from the prohibition on dangerous substances and devices for crew members bringing items necessary for the performance of their duties. These could include props, such as toy guns, if used in a performance, or other such items. We do not believe such an exemption for crew members is warranted. We are concerned that a crew member may breach security with a prohibited item under the false pretense that an item was needed for his or her official duties. We note that if certain items are needed on board, such as props for a show, they can be brought in as ship's stores.

One commenter took issue with including the PIL in the FSP, but not the VSP. The commenter argued that by not including the PIL as a requirement in the VSP, there is inconsistency in the application of prohibited items. They also argued that including the PIL in the VSP would ensure application at foreign ports of call and allow for consistent communication regarding prohibited items. We disagree. Even if the cruise ship conducts the screening, they are still required to conduct it in accordance with the requirements in § 104.295, which prohibit the introduction of ''dangerous substances and devices.'' The PIL is a document that helps to clarify what those items are. Therefore, because vessel operators must screen for items on the PIL, it is not necessary to include the PIL in the VSP.

One commenter argued that the Coast Guard may not be the correct entity to generate the PIL, as the limitations placed on its resources make it inadequate to compile a modern list of dangerous substances. We disagree and note that the Coast Guard expends considerable resources in considering materials, scenarios, and techniques that could be used to cause security incidents. Finally, we note that members of the public are welcome to contact the Coast Guard at any time with suggestions for how the PIL can be improved.

One commenter requested more specificity for the PIL. Noting that the list includes such terms as ''limited quantities'' and ''quantities appropriate for personal use,'' the commenter suggested that those terms needed additional specificity in order to take the subjectivity out of screening for passengers and cruise terminal operators, as well as Coast Guard inspectors.

These terms were used in the PIL in two locations. We stated that aerosols are prohibited, but excluded ''items for personal care or toiletries in limited quantities.'' Similarly, we stated that lighter fluids are prohibited, but provided an exception for ''liquefied gas (*e.g.* Bic®-type) or absorbed liquid (*e.g.*

[25] USCG–2006–23846–0019, p.3.

Zippo®-type) lighters in quantities appropriate for personal use.''

Upon consideration, and given the nature of the PIL, we believe that removing aerosols and lighter fluids from the PIL is appropriate. By removing these items from the PIL, we are not saying that lighter fluid and aerosols are not ''dangerous substances'' in any amount. Rather, we are giving the responsible security officials the discretion and responsibility for determining if allowing these items in ''limited quantities'' or ''quantities appropriate for personal use'' is the best course of action considering the particular nature of the vessel and duration of the cruise. If the security officer believes that a particular quantity of aerosols or lighter fluid constitutes a dangerous amount, then they should prohibit that item as they would any other dangerous substance or device in accordance with § 104.295 and § 105.290.

For similar reasons involving a lack of specificity, we are removing ''realistic replicas'' of guns and firearms. Again, we leave it to the judgment of a security officer as to whether a replica is realistic enough to constitute a threat.

One commenter argued that the PIL would not be particularly effective, and that ''any current inspector is already looking for those items.'' We agree with the idea that an inspector would likely be looking for the items listed on the PIL, and would like to use this opportunity to explain again the purpose of the PIL. Regulations already exist prohibiting ''dangerous substances and devices'' from being brought on board cruise ships, and screening procedures are already designed to search for them. The PIL is a Coast Guard interpretation of certain items that we believe are always ''dangerous substances and devices,'' and must be intercepted at screening. Publication of this list by the Coast Guard will reduce uncertainty in the industry and the public about what is prohibited and what is not, especially as many cruise lines maintain varying lists about what is prohibited, and will help cruise ship facilities better implement the screening requirement in 33 CFR 105.290(a). We fully expect cruise ship and terminal operators to use discretion in screening, and to prohibit other items that they consider dangerous, either based on the nature of the item, the quantity, or other characteristics. For that reason, the PIL is not intended to be a comprehensive list of all items prohibited on a cruise ship. Furthermore, we note that the PIL does not prohibit screening for other items that, while not necessarily dangerous from a security standpoint, may be prohibited for other reasons, such as electrical appliances or alcoholic beverages.

The commenter also suggested that the posting of the PIL on docks, the incorporation into the FSP, and the use of the PIL in training would not be particularly onerous. We agree.

One commenter suggested that the proposed regulations do not address items that can be brought on board at a foreign port of call. We disagree, and note that a cruise ship must still comply with the regulations in § 104.295 before passengers enter the sterile (or secure) portion of a cruise ship. During that screening, which incorporates relevant portions of subpart E, items brought on board at the port of call will be subject to the requirements of this rule.

One commenter protested the inclusion of ''self-defense sprays'' on the PIL. The commenter made several arguments as to why such items should be permitted on vessels. First, the commenter noted that unlike an aircraft, on cruise ships there are medical facilities for treatment and open air areas on the ship in case of accidental release. In response, we note that the rationale for an item being included on the PIL is not that they may accidentally injure a passenger, but rather that they can be used to effect a TSI. Therefore we do not agree with the commenter on this point. Second, the comment suggested that bear spray is often used by passengers in Alaska for use on shore excursions, and argued that the restricted areas on the ship could protect critical operations in the event of a bear spray release. While we realize that this is possible, we note that a TSI may not necessarily involve breaching critical ship areas like the bridge or engine room, but could involve simply the injury or deaths of large numbers of passengers trapped in an enclosed area, which is one reason that cruise ships are protected more than other areas, such as buildings.

However, we note that there is a solution for the commenter's need for passengers to possess items like bear spray. The PIL is a rule that relates to screening of passenger items, but does not affect items brought on board as vessel stores or provisions. In the bear spray example, passengers could relinquish their bear spray to vessel employees prior to boarding, who could store the sprays in a secure area of the vessel. The sprays could then be returned to the passengers prior to their shore excursions. In this way, the fact that the item is on the PIL does not fully exclude it from use. Such a system of having items stored in a secure area can be used if a passenger wishes to transport or use on expeditions other items on the PIL, including firearms. We reiterate that this rule is simply designed to prohibit dangerous items from being accessible to passengers on the vessel, not to limit the activities of person on shore-side excursions.

Finally, the Coast Guard is modifying the language in § 105.515(a) so that it is phrased as a requirement on owners and operators of cruise ship terminals, rather than simply a policy statement that the Coast Guard will issue and maintain the PIL. We note that this has no substantive effect, but is simply a stylistic change, as owners and operators of cruise ship terminals are required by § 105.515(c) to display the PIL at screening locations and integrate the PIL into the DoS.

We have included a copy of the revised Prohibited Items List in the docket of this rulemaking, and we also note that it is available on the Coast Guard's website at *https://homeport.uscg.mil.* As stated in the NPRM, if there are future revisions to the PIL, the Coast Guard will publish an interpretive rule in the **Federal Register** to alert the public of any such change. Additionally, the Coast Guard will, as stated in the NPRM, endeavor to obtain NMSAC input and afford ship and facility owners a reasonable amount of advance notice before making an update effective unless an immediate change is necessary for imminent public safety and/or national security reasons.

E. Regulatory Impact Analysis and Regulatory Flexibility Analysis

The Coast Guard received comments from one commenter on the Regulatory Analysis. The commenter stated that the cost analyses did not reflect the costs that would be incurred by existing facilities that receive cruise ship tenders if they would have to assume responsibility for screening. The commenter also noted that the Regulatory Flexibility Analysis for the NPRM did not include the costs for these facilities, which are likely owned by small businesses and governments.

In response to these and other similar comments, for the Final Rule, the Coast Guard modified two definitions in § 101.105 and amended the proposed language to remove the screening location requirement in § 104.295. These changes, discussed in detail in section A, above, clarify that existing facilities that receive cruise ship tenders may continue the current practice of coordinating screening and security arrangements with cruise vessels. The cost concerns expressed in the comments on the Regulatory Analysis are alleviated by the regulatory language

changes, the language in the Final Rule clarifies the current industry practice.

F. Other Comments

The Coast Guard received comments on a wide variety of other matters, only some of which directly related to the substance of the proposed rule. We address these comments briefly in this section.

Several commenters expressed dissatisfaction with the proposed rule in general, and argued that screening for dangerous substances and devices would be burdensome and/or ineffective. We note that screening of passengers and their baggage is already required, and this rule merely adds more detail to those requirements. As made clear in our regulatory analysis, we do not believe that the additional detail provided in this regulation will substantially alter the time and/or burden that this screening requires for either passengers or cruise ship terminal operators.

One commenter requested that there be exceptions to the items prohibited, such as a medical condition or special circumstances. We have addressed this issue above, and note that otherwise-prohibited items can be brought onto a ship via ship's stores, and stored in a controlled environment for authorized use. The commenter also suggested that the Coast Guard should take into consideration the vast differences in size between cruise ships and aircraft, and allow cruise ships to formulate their own screening methods. We note that this rule relates to screening methods that were developed specifically for cruise ships, and is scalable for cruise ships that need to screen thousands of passengers in a short time.

One commenter argued that bringing guns on board a cruise ship would improve the personal safety of passengers, if one passenger were to be assaulted by another. We note that this rule is focused on the risks of a TSI, not personal safety, and the risks to all passengers caused by allowing uncontrolled firearms onto cruise ships are substantial. We note that the issue of personal safety with regard to firearms is outside the scope of this rule.

One commenter agreed with the Coast Guard that while wholesale adoption of TSA standards for X-ray and explosives detective systems was not necessary, there were certain advantages to using machinery on the TSA's QPL. These advantages included established system maturity, mature logistics and maintenance organizations, and certification programs. We agree that operators may find items that are certified to TSA standards useful, but they are not required. The commenter also noted that such machines can be used to scan vessel stores, although we note that screening of stores is outside the scope of this rulemaking.

One commenter recommended that the Coast Guard adopt a ''turnkey approach'' to security inspections of all sorts where a single company is tasked with providing equipment, personnel, training, and the security infrastructure necessary to meet specified requirements. While it is certainly within the scope of cruise ship terminal operators and cruise ship operators to work with a single company to meet all of the applicable requirements, it is by no means required. The security requirements finalized in this rule are designed to allow flexibility, especially given the varying configurations and operational models for cruise ships, terminals, and ports of call.

The Coast Guard received comments from one commenter on the Regulatory Analysis. The commenter stated that the cost analyses did not reflect the costs that would be incurred by existing facilities that receive cruise ship tenders if they would have to assume responsibility for screening. The commenter also noted that the Regulatory Flexibility Analysis for the NPRM did not include the costs to these facilities, which are likely owned by small businesses and governments.

In response to the comments, for the Final Rule, the Coast Guard has modified several definitions and amended the proposed language to remove the screening location requirement in § 104.295. These changes clarify that existing facilities that receive cruise ship tenders may continue the current practice of coordinating screening and security arrangements with cruise vessels. The cost concerns expressed in the comments on the Regulatory Analysis are alleviated by the regulatory language changes. Therefore, we are adopting as final the regulatory assessment for the NPRM, with minor administrative edits to account for the revised text of the final rule. In addition, a full Regulatory Assessment (RA) is available in the docket.

V. Regulatory Analyses

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analysis based on these statutes and executive orders.

A. Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs''), directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* OMB's Memorandum ''Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017). A regulatory analysis (RA) follows.

The following table summarizes the affected population, costs, and benefits of this rule. A summary of costs and benefits by provision is provided later in this section.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS IN 2016$ AND BENEFITS

Category	Estimate
Affected population	137 MTSA-regulated facilities; 23 cruise line companies.
Development of TSP	$156,397

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS IN 2016$ AND BENEFITS—Continued

Category	Estimate
Updating FSP	$9,775
Total Cost *	$166,171
Qualitative Benefits	
Terminal Screening Program	Greater clarity and efficiency due to removal of redundancy in regulations. The TSP improves industry accountability and provides for a more systematic approach to monitor facility procedures.
Prohibited Items List	Details those items that are prohibited from all cruise terminals and vessels. Provides a safer environment by prohibiting potentially dangerous items in unsecured areas of the cruise ship across the entire industry.

* Value is undiscounted. We expect the costs of this rulemaking are borne in the first year of implementation. See discussion below for more details.

As previously discussed, this final rule will amend regulations on cruise ship terminal security. The regulations will provide requirements for the screening of persons intending to board a cruise ship, as well as their baggage and personal effects. In this rulemaking, we intend to issue and maintain a Prohibited Items List of dangerous substances or devices (*e.g.,* firearms and ammunition, flammable liquids and explosives, dangerous chemicals). The PIL is based on similar items currently prohibited by industry, and is intended to be a minimum requirement; vessel owner and operators would be free to prohibit items not listed on it. We anticipate that the PIL described in the preamble will be cost neutral to the industry. We also intend to eliminate redundancies in the regulations that govern the security of cruise ship terminals. Table 2 summarizes changes from the NPRM to the Final Rule.

TABLE 2—CHANGES FROM THE NPRM TO THE FINAL RULE

Section	NPRM	Final rule	Costs
Cruise ship terminal	Referred to as a point from which passengers or crew commence or terminate a voyage.	Referred to as a point for initial embarkation.	Clarification: No cost.
104.295(1): Screening	Required that screening should be done at the cruise ship terminal.	The requirement for the final rule, now state that screen should be done prior to entering the sterile (or secure) portion of a cruise ship.	Clarification: No Cost.
104.295(2): Screening	N/A	Vessel owner or operator may work with cruise ship terminal of port of call to meet the requirement of this section.	Current industry practice: No Cost.
105.292: Cruise ship ports of call	N/A	Owner or operator of cruise ship port of call must work with the operator of each cruise ship to minimize duplication of any provision fulfilled by the vessel.	Current industry practice: No Cost.
105.500(c)(2): General	Terminal owners and operators must comply with an approved TSP.	Both terminal and cruise ship owners and operators must comply with an approved TSP.	Clarification: No Cost.

This final rule will allow owners and operators of cruise ships and cruise ship terminals the choice of their own screening methods and equipment and establish security measures tailored to their own operations. This final rule will incorporate current industry practices and performance standards.

We found several provisions of the rulemaking to have no additional impact based on information from Coast Guard and industry security experts and site visits to cruise terminals. A summary of key provisions with and without additional costs follow.

Key provisions without additional costs (current industry practice under existing MTSA regulations):

- 33 CFR part 105 Subpart E Screening equipment standards;
  - § 105.255(a) and § 128.200(a)(1) and § 128(a)(2) currently require screening for dangerous substances and devices. In accordance with those regulations, industry already screens baggage and persons.
- § 105.530 Qualifications of screeners; and
  - § 105.210 details qualifications for facility personnel with security duties, which includes operation of security equipment and systems, and methods of physical screening of persons, personal affects, baggage, cargo and vessel stores.
- § 105.535 Training of screeners.
  - § 105.210 details qualifications for facility personnel with security duties, which includes operation of security equipment and systems, and methods of physical screening of persons, personal

affects, baggage, cargo and vessel stores. Records for all training under § 105.210 are required to be kept per § 105.225(b)(1).

The purpose of including these requirements in this regulatory action is to consolidate requirements for screeners in one place of the CFR and eliminate redundancies in cruise ship security regulations by eliminating the requirements in parts 120 and 128. We do not believe that these new items will add any additional costs, for the reasons described below.

We note that several of the requirements in § 105.535 are already implicitly required by the general security training requirements in § 105.210. Specifically, § 105.535(b), (c), and (g), requiring that screening personnel be familiar with specific portions of the TSP, are already encompassed by the general requirement in § 105.210(k), which requires security personnel to be familiar with relevant portions of the FSP. Also, § 105.535(f), which requires that screeners be familiar with additional screening requirements at increased MARSEC levels, is implicitly contained in the existing requirement in § 105.210(m).

Other items in § 105.535 are not expected to increase costs because we believe they are already performed by screening personnel. We believe that all screening personnel are currently trained in the specific screening methods and equipment used at the terminal (item (d)), and the terminal-specific response procedures when a dangerous item is found (item (e)). Furthermore, we believe it is a reasonable assumption that screening personnel are familiar with item (a)—historic and current threats against the cruise ship industry.

We estimate the final rule will affect 23 cruise line companies. Each cruise line maintains an FSP for each terminal that they utilize. Based on information from the Coast Guard MISLE database, we estimate that the final rule will require that FSPs at 137 MTSA-regulated facilities be updated. The final rule will require these facilities to add TSP chapters to their existing FSPs. This rule will also require owners and operators of cruise ship terminals to add a Prohibited Items List to current FSPs. The following table provides a breakdown of additional costs by requirement.

TABLE 3—SUMMARY OF FIRST-YEAR COSTS BY REQUIREMENT

Requirement	Costs (undiscounted; rounded)	Description
Terminal Screening Program (TSP)	$156,397	Cost to create and add the TSP chapter to the FSPs.
Update the FSP	9,775	Cost to update the Prohibited Items List in FSPs.
Total	166,171	First-year undiscounted costs.

We estimate the cost of this rule to industry to be about $166,171 in the first year. We expect the total costs of this rulemaking to be borne in the first year of implementation. Under MTSA, FSPs are required to undergo an annual audit, and it is during that audit that any revisions to the PIL will be incorporated into the FSP (33 CFR 105.415). We do not anticipate any recurring annual cost as a result of this rule, as the annual cost to update the FSP is not expected to change due to the inclusion of the TSP and PIL.

Benefits

The benefits of the rulemaking include codification of guidelines for qualifications for screeners, more transparent and consistent reporting of screening procedures across cruise lines, improved industry accountability regarding security procedures, and greater clarity and efficiency due to the removal of redundant regulations. We do not have data to estimate monetized benefits of this rulemaking. We present qualitative benefits and a break even analysis in the Regulatory Analysis available in the docket to demonstrate that we expect the benefits of the rulemaking to justify its costs.

There are several qualitative benefits that can be attributed to the provisions in this rulemaking. Table 4 provides a brief summary of benefits of key provisions.

TABLE 4—BENEFITS OF KEY PROVISIONS

Key provision	Benefit
Terminal Screening Program	• Greater clarity and efficiency due to removal of redundancy in regulations. • The TSP improves industry accountability and provides for a more systematic approach to monitor facility procedures.
Prohibited Items List	• Details those items that are prohibited from unsecured areas in all cruise terminals and vessels. • Provides a safer environment by prohibiting potentially dangerous items across the entire industry.

Break Even Analysis

It is difficult to quantify the effectiveness of the provisions in this rulemaking and the related monetized benefits from averting or mitigating a transportation security incident (TSI). Damages resulting from TSIs are a function of a variety of factors including, but not limited to, target type, terrorist attack mode, the number of fatalities and injuries, economic and environmental impacts, symbolic effects, and national security impacts.

For regulatory analyses, the Coast Guard uses a value of a statistical life (VSL) of $9.6 million. A value of a statistical life of $9.6 million is equivalent to a value of $9.60 as a measure of the public's willingness to pay to reduce the risk of a fatality by one in a million, $0.96 to reduce a one in 10 million risk, and $0.096 to reduce a one in 100 million risk.[26] As 8.9

[26] "Guidance on Treatment of the Economic Value of a Statistical Life in U.S., Department of Transportation Analysis" *https://cms.dot.gov/sites/dot.gov/files/docs/2016%20Revised%20*

million passengers embark onto cruise ships in the U.S. each year,[27] very small reductions in risk can result in a fairly large aggregate willingness to pay for that risk reduction. A VSL of $9.6 million indicates that 8.9 million cruise ship passengers that embark from the U.S. would collectively be willing to pay approximately $8.544 million to reduce the risk of a fatality by one in 10 million (8.90 million passenger × $0.96). As the 8.9 million passengers estimate only includes the initial embarkation of a cruise and passengers often leave and return to the vessel during a cruise (passing through screening each time), the actual risk reduction to break even per screening may be lower. The annualized costs of the final rule are approximately $22,111 at 7 percent; thus, the final rule would have to prevent one fatality every 434 years for the rule to reach a break-even point where costs equal benefits ($9.6 million value of a statistical life/$22,111 average annual cost of rule = 434).

The preliminary Regulatory Analysis in the docket provides additional details of the impacts of this rulemaking.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. 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 fewer than 50,000 people. In the NPRM the Coast Guard certified that this rule will not have a significant economic impact on a substantial number of small entities. The Coast Guard received no comments related to its discussion and analysis of impacts on small entities during the public comment period. We have received no additional information or data that will alter our determination, discussion and analysis of the NPRM.

We expect entities affected by the rule will be classified under the North American Industry Classification System (NAICS) code subsector 483—Water Transportation, which includes the following six-digit NAICS codes for cruise lines: 483112—Deep Sea Passenger transportation and 483114—Coastal and Great Lakes Passenger Transportation.

According to the Small Business Administration's Table of Small Business Size Standards,[28] a U.S. company with these NAICS codes and employing equal to or fewer than 500 employees is a small business. Additionally, cruise lines may fall under the NAICS code 561510—Travel Agencies, which have a small business size standard of equal to or less than $20.5 million in annual revenue.

For this rule, we reviewed recent company size and ownership data from the Coast Guard MISLE database, and public business revenue and size data. We found that of the 23 entities that own or operate cruise ship will be affected by this rulemaking, 11 are foreign entities. All 23 entities exceed the Small Business Administration small business standards for small businesses along with the 137 MTSA facilities.

We did not find any small not-for-profit organizations that are independently owned and operated and are not dominant in their fields. We did not find any small governmental jurisdictions with populations of fewer than 50,000 people. Based on this analysis, we found that this rulemaking, if promulgated, will not affect a substantial number of small entities.

Therefore the Coast Guard affirms its certification under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking. 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.

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).

D. Collection of Information

This rule calls for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Under the provisions of this final rule, plan holders will submit amended security plans within 180 days of promulgation of the rule and update them annually. This requirement will be added to an existing collection with OMB control number 1625–0077.

Title: Security Plans for Ports, Vessels, Facilities, Outer Continental Shelf Facilities and Other Security-Related Requirements.

OMB Control Number: 1625–0077.

Summary of the Collection of Information: Facilities that receive cruise ships will be required to update Facility Security Plans (FSPs) to contain additional information regarding the screening process at cruise terminals. Also, all cruise ship terminals that currently have a FSP, will need to update said plan to include the list of prohibited items as detailed in this rule.

Need for Information: The information is necessary to show evidence that cruise lines are consistently providing a minimum acceptable screening process when boarding passengers. The information will improve existing and future FSPs for cruise terminals, since they currently do not separate this important information.

Proposed Use of Information: The Coast Guard will use this information to ensure that facilities are taking the proper security precautions when loading cruise ships.

Description of the Respondents: The respondents are FSP holders that receive cruise ships.

Number of Respondents: The number of respondents is 10,158 for vessels, 5,234 for facilities, and 56 for Outer

Value%20of%20a%20Statistical%20Life%20 Guidance.pdf.

[27] Source: Cruise Lines International Association, Inc. (CLIA), *2009 U.S. Economic Impact Study,* Table ES–2, Number of U.S., Embarkations. . *https://www.cruising.org/about-the-industry/press-room/press-releases/pr/clia-releases-report-on-industry-s-2009-contributions.*

[28] Source: *http://www.sba.gov/size.* SBA has established a Table of Small Business Size Standards, which is matched to the North American Industry Classification System (NAICS) industries. A size standard, which is usually stated in number of employees or average annual receipts (''revenues''), represents the largest size that a business (including its subsidiaries and affiliates) may be to remain classified as a small business for SBA and Federal contracting programs.

Continental Shelf (OCS) facilities. Of these 5,234 facilities, 137 facilities that receive cruise ships that will be required to modify their existing FSPs to account for the TSP chapter.

Frequency of Response: Cruise lines will only need to write a TSP chapter once before inserting it into the associated FSP. This will be required during the first 6 months after publication of the final rule.

Burden of Response: The estimated burden for cruise lines per TSP chapter will be approximately 16 hours. The estimated burden to update the FSP will be 1 hour.

Estimate of Total Annual Burden: The estimated first-year burden for cruise lines is 16 hours per TSP chapter. Since there are currently 137 FSPs, the total burden on facilities will be 2,192 hours (137 TSPs × 16 hours per TSP) in the first year. For the 137 facilities, the total burden will be 137 hours (137 FSPs × 1 hour per FSP). The current burden for this collection of information is 1,125,171. The new burden, as a result of this rulemaking, is (1,125,171 + 2,192 + 137) or 1,127,500 hours in the first year only. All subsequent year burdens will be considered part of the annual review process for FSPs.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted a copy of this final rule to the OMB for its review of the collection of information.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information become effective, we will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the proposed collection.

E. Federalism

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 has implications for federalism. A summary of the impact of federalism in this rule follows.

This final rule builds on the existing port security requirements found in 33 CFR part 105 by establishing detailed requirements for the screening of persons, baggage, and personal items intended for boarding a cruise ship. It also establishes terminal screening requirements for owners and operators of cruise ship terminals, some of which are State entities.

As implemented by the Coast Guard, the MTSA-established federal security requirements for regulated maritime facilities, including the terminal facilities serving the cruise ship industry, are amended by this final rule. These regulations were, in many cases, preemptive of State requirements. Where State requirements might conflict with the provisions of a federally approved security plan, they had the effect of impeding important federal purposes, including achieving uniformity. However, the Coast Guard also recognizes that States have an interest in these proposals to the extent they impose requirements on State-operated terminals or individual States may wish to develop stricter regulations for the federally regulated maritime facilities in their ports, so long as necessary security and the above-described principles of federalism are not compromised. Sections 4 and 6 of Executive Order 13132 require that for any rules with preemptive effect, the Coast Guard shall provide elected officials of affected state and local governments and their representative national organizations the notice and opportunity for appropriate participation in any rulemaking proceedings, and to consult with such officials early in the rulemaking process. Therefore, we invited affected state and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to the NPRM. In accordance with Executive Order 13132, the Coast Guard is providing a federalism impact statement to document: (1) The extent of the Coast Guard's consultation with State and local officials that submit comments to this rule, (2) a summary of the nature of any concerns raised by state or local governments and the Coast Guard's position thereon, and (3) a statement of the extent to which the concerns of State and local officials have been met.

The Coast Guard interacted with State and local governmental authorities primarily through the notice and comment procedure. The Coast Guard received comments from the following governmental entities: The Port Authority of New York and New Jersey, the City of Rockland, ME, the Massachusetts Port Authority, the U.S. Virgin Islands, Port Miami, and the Broward County Florida Port Everglades Department. The commenters addressed a range of issues of significance, which while addressed in more detail above in section IV, are summarized below.

Many port authorities were concerned regarding the issue of liability in the event of security breaches or failures to comply with applicable terminal screening regulations. Several port authorities described contractual relationships with cruise ship operators or third parties that assigned screening responsibility to those parties, and were concerned that the new regulations could hold them liable as terminal owners if the operating party failed to comply with regulations. This transfer of liability was not the intent of the rule, and the Coast Guard was responsive to these entities' request by adding language to sections 104.295 and 105.292 specifying that, if detailed in a DoS, terminal owners could meet their regulatory requirements by assigning screening responsibility to a cruise ship operator or other responsible party. We believe this change fully addresses this concern.

Other issues raised by local or State authorities concerned procedural requirements stemming from the identification of prohibited items discovered in secure areas. These issues, which were also raised by non-governmental entities, were addressed by including language in the text of the regulation at section 105.515(d) that more clearly laid out the steps to be taken in the event of a discovery of a prohibited item at various stages of the screening process.

Several governmental entities, most notably the U.S. Virgin Islands, were highly concerned about the expansion of the regulation to ''ports of call.'' In response to these concerns, the Coast Guard clarified in section IV.A that the enhanced screening requirements applied only to terminals, which are a separate class of facilities. This clarifies that the smaller ports of call can continue to conduct screening requirements under their current systems.

Finally, we received a request from one large port authority to add more specific training and qualification criteria for cruise ship screeners. In the final rule, we declined to adopt this suggestion, because we believe that such a ''one size fits all'' approach would be impracticable and burdensome considering the wide range of cruise ship terminals and ports of call. We note that while not required, larger terminals are free to subject their screening personnel to more stringent training requirements than required by these regulations.

F. 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.

G. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will 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.

K. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

L. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not add any voluntary consensus standards. Due to the nature of cruise ship security operations, performance-based standards allow an appropriate degree of flexibility that accommodates and is consistent with different terminal sizes and operations. This rule will standardize screening activities for all persons, baggage, and personal effects at cruise ship terminals to ensure a consistent layer of security at terminals throughout the United States. Additionally, the Coast Guard consulted with the TSA during the development of this rule.

M. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble. This rule is categorically excluded under paragraphs 34(a), regulations which are editorial or procedural; 34(c), regulations concerning the training, qualifying, licensing, and disciplining or maritime personnel; and 34(d), regulations concerning the documentation, admeasurement, inspection, and equipment of vessels, of the Coast Guard's NEPA Implementing Procedures and Policy for Considering Environmental Impacts, COMDTINST M16475.1D, and paragraph 6(b) of the ''Appendix to National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions'' (67 FR 48243, July 23, 2002).

List of Subjects

33 CFR Part 101

Harbors, Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

33 CFR Part 104

Maritime security, Reporting and recordkeeping requirements, Security measures, Vessels.

33 CFR Part 105

Maritime security, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 120

Passenger vessels, Reporting and recordkeeping requirements, Security measures, Terrorism.

33 CFR Part 128

Harbors, Reporting and recordkeeping requirements, Security measures, Terrorism.

For the reasons listed in the preamble, the Coast Guard amends 33 CFR parts 101, 104, 105, 120, and 128 as follows:

PART 101—MARITIME SECURITY: GENERAL

■ 1. The authority citation for part 101 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 192; Executive Order 12656, 3 CFR 1988 Comp., p. 585; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 101.105, add, in alphabetical order, definitions for the terms ''carry-on item'', ''checked baggage'', ''cruise ship terminal'', ''cruise ship voyage'', ''disembark'', ''embark'', ''explosive detection system'', ''high seas'', ''port of call'', ''screener'', and ''terminal screening program or TSP'' to read as follows:

§ 101.105 Definitions.

* * * * *

Carry-on item means an individual's accessible property, including any personal effects that the individual intends to carry onto a vessel or facility subject to this subchapter and is therefore subject to screening.

* * * * *

Checked baggage means an individual's personal property tendered by or on behalf of a passenger and accepted by a facility or vessel owner or operator. This baggage is accessible to the individual after boarding the vessel.

* * * * *

Cruise ship terminal means any portion of a facility that receives a cruise ship or its tenders for initial embarkation or final disembarkation.

Cruise ship voyage means a cruise ship's entire course of travel, from the first port at which the vessel embarks passengers until its return to that port or another port where the majority of the passengers disembark and terminate their voyage. A cruise ship voyage may include one or more ports of call.

* * * * *

Disembark means any time that the crew or passengers leave the ship.

* * * * *

Embark means any time that crew or passengers board the ship, including re-boarding at ports of call.

* * * * *

Explosives detection system means any system, including canines, automated device, or combination of devices that have the ability to detect explosive material.

* * * * *

High seas means the waters defined in § 2.32(d) of this chapter.

* * * * *

Port of call means a U.S. port where a cruise ship makes a scheduled or unscheduled stop in the course of its voyage and passengers are allowed to embark and disembark the vessel or its tenders.

* * * * *

Screener means an individual who is trained and authorized to screen or inspect persons, baggage (including carry-on items), personal effects, and vehicles for the presence of dangerous substances and devices, and other items listed in the vessel security plan (VSP) or facility security plan (FSP).

* * * * *

Terminal screening program or TSP means a written program developed for a cruise ship terminal that documents methods used to screen persons, baggage, and carry-on items for the presence of dangerous substances and devices to ensure compliance with this part.

* * * * *

PART 104—MARITIME SECURITY: VESSELS

■ 3. The authority citation for part 104 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 4. In § 104.295, revise paragraphs (a)(1) and (2) to read as follows:

§ 104.295 Additional requirements — cruise ships.

(a) * * *

(1) Screen all persons, baggage, and personal effects for dangerous substances and devices prior to entering the sterile or secure portion of a cruise ship in accordance with the qualification, training, and equipment requirements of §§ 105.530, 105.535, and 105.545 of this subchapter.

(2) The vessel owner or operator may work with the owner or operator of each cruise ship terminal or port of call at which that vessel embarks or disembarks passengers to meet the requirements of this section. The owner or operator of a cruise ship need not duplicate any provisions fulfilled by the cruise ship terminal or port of call. When a provision is fulfilled by the cruise ship terminal or port of call, the applicable section of the Vessel Security Plan must refer to that fact.

* * * * *

PART 105—MARITIME SECURITY: FACILITIES

■ 5. The authority citation for part 105 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. 70103; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–11, 6.14, 6.16, and 6.19; Department of Homeland Security Delegation No. 0170.1.

■ 6. In § 105.225, revise paragraph (b)(1) to read as follows:

§ 105.225 Facility recordkeeping requirements.

* * * * *

(b) * * *

(1) *Training.* For training under §§ 105.210 and 105.535, the date of each session, duration of session, a description of the training, and a list of attendees;

* * * * *

■ 7. In § 105.290, revise paragraphs (a) and (b) to read as follows:

§ 105.290 Additional requirements—cruise ship terminals.

* * * * *

(a) Screen all persons, baggage, and personal effects for dangerous substances and devices in accordance with the requirements in subpart E of this part. The owner or operator of a cruise ship terminal need not duplicate any provisions fulfilled by the vessel. When a provision is fulfilled by a vessel, the applicable section of the terminal security program (TSP) must refer to that fact.

(b) Check the identification of all persons seeking to enter the facility in accordance with §§ 101.514, 101.515, and 105.255 of this subchapter. Persons holding a Transportation Worker Identification Credential (TWIC) must be checked as set forth in this part. For persons not holding a TWIC, this check includes confirming the individual's validity for boarding by examining passenger tickets, boarding passes, government identification or visitor badges, or work orders;

* * * * *

■ 8. Add § 105.292 to read as follows:

§ 105.292 Additional requirements—cruise ship ports of call.

(a) The owner or operator of a cruise ship port of call must work with the operator of each cruise ship subject to part 104 of this chapter to ensure that passengers are screened for dangerous substances and devices in accordance with the qualification, training, and equipment requirements of §§ 105.530, 105.535, and 105.545. The port of call need not duplicate any provisions fulfilled by the vessel. When a provision is fulfilled by a vessel, the applicable section of the TSP must refer to that fact.

(b) The owner or operator of a cruise ship port of call must display the Prohibited Items List at each screening location.

■ 9. In § 105.405, revise paragraphs (a)(17) and (18), reserve paragraphs (a)(19) and (20), and add paragraph (a)(21) to read as follows:

§ 105.405 Format and content of the Facility Security Plan (FSP).

(a) * * *

(17) Facility Security Assessment (FSA) report;

(18) Facility Vulnerability and Security Measures Summary (Form CG–6025) in Appendix A to part 105; and,

(19)–(20) [Reserved]

(21) If applicable, cruise ship TSP in accordance with subpart E of this part.

* * * * *

■ 10. Add subpart E to part 105 to read as follows:

Subpart E—Facility Security: Cruise Ship Terminals

Sec.

105.500 General.
105.505 Terminal Screening Program (TSP).
105.510 Screening responsibilities of the owner or operator.
105.515 Prohibited Items List (PIL).
105.525 Terminal screening operations.
105.530 Qualifications of screeners.
105.535 Training requirements of screeners.
105.540 Screener participation in drills and exercises.
105.545 Screening equipment.
105.550 Alternative screening.

Subpart E—Facility Security: Cruise Ship Terminals

§ 105.500 General.

(a) *Applicability.* The owner or operator of a cruise ship terminal must comply with this subpart when receiving a cruise ship or tenders from cruise ships.

(b) *Purpose.* This subpart establishes cruise ship terminal screening programs within the Facility Security Plans to ensure that prohibited items are not present within the secure areas that have been designated for screened persons, baggage, and personal effects, and are not brought onto cruise ships interfacing with the terminal.

(c) *Compliance dates.* (1) No later than October 15, 2018, cruise ship terminal owners or operators must submit, for each terminal, a terminal screening program (TSP) that conforms with the requirements in § 105.505 to the cognizant COTP for review and approval.

(2) No later than April 18, 2019, each cruise ship terminal owner or operator must operate in compliance with an approved TSP and this subpart.

§ 105.505 Terminal Screening Program (TSP).

(a) *General requirements.* The owner or operator of a cruise ship terminal must ensure a TSP is developed, added to the Facility Security Plan (FSP), and implemented. The TSP must—

(1) Document all procedures that are employed to ensure all persons, baggage, and personal effects are screened at the cruise ship terminal prior to being allowed into a cruise ship terminal's secure areas or onto a cruise ship;

(2) Be written in English; and

(3) Be approved by the Coast Guard as part of the FSP in accordance with subpart D of this part.

(b) *Availability.* Each cruise ship terminal Facility Security Officer (FSO) must—

(1) Maintain the TSP in the same or similar location as the FSP as described in § 105.400(d);

(2) Have an accessible, complete copy of the TSP at the cruise ship terminal;

(3) Have a copy of the TSP available for inspection upon request by the Coast Guard;

(4) Maintain the TSP as sensitive security information (SSI) and protect it in accordance with 49 CFR part 1520; and

(5) Make a copy of the current Prohibited Items List (PIL) publicly available. The PIL and copies thereof are not SSI.

(c) *Content.* The TSP must include—

(1) A line diagram of the cruise ship terminal including—

(i) The physical boundaries of the terminal;

(ii) The location(s) where all persons intending to board a cruise ship, and all personal effects and baggage, are screened; and

(iii) The point(s) in the terminal beyond which no unscreened person may pass.

(2) The responsibilities of the owner or operator regarding the screening of persons, baggage, and personal effects;

(3) The procedure to obtain and maintain the PIL;

(4) The procedures used to comply with the requirements of § 105.530 regarding qualifications of screeners;

(5) The procedures used to comply with the requirements of § 105.535 regarding training of screeners;

(6) The number of screeners needed at each location to ensure adequate screening;

(7) A description of the equipment used to comply with the requirements of § 105.525 regarding the screening of individuals, their personal effects, and baggage, including screening at increased Maritime Security (MARSEC) levels, and the procedures for use of that equipment;

(8) The operation, calibration, and maintenance of any and all screening equipment used in accordance with § 105.545;

(9) The procedures used to comply with the requirements of § 105.550 regarding the use of alternative screening methods and/or equipment, including procedures for passengers and crew with disabilities or medical conditions precluding certain screening methods; and

(10) The procedures used when prohibited items are detected.

(d) As a part of the FSP, the requirements in §§ 105.410 and 105.415 governing submission, approval, amendment, and audit of a TSP apply.

§ 105.510 Screening responsibilities of the owner or operator.

In addition to the requirements of § 105.200, the owner or operator of a cruise ship terminal must ensure that—

(a) A TSP is developed in accordance with this subpart, and submitted to and approved by the cognizant Captain of the Port (COTP), as part of the FSP, in accordance with this part;

(b) Screening is conducted in accordance with this subpart and an approved TSP;

(c) Specific screening responsibilities are documented in a Declaration of Security (DoS) in accordance with §§ 104.255 and 105.245 of this subchapter;

(d) Procedures are established for reporting and handling prohibited items that are detected during the screening process;

(e) All personal screening is conducted in a uniform, courteous, and efficient manner respecting personal rights to the maximum extent practicable; and

(f) When the MARSEC (Maritime Security) level is increased, additional screening measures are employed in accordance with an approved TSP.

§ 105.515 Prohibited Items List (PIL).

(a) The owner or operator of a cruise ship terminal must obtain from the Coast Guard and maintain a Prohibited Items List (PIL) consisting of dangerous substances and devices for purposes of § 105.290(a). The list specifies those items that the Coast Guard prohibits all persons from bringing onboard any cruise ship through terminal screening operations regulated under 33 CFR part 105.

(b) Procedures for screening persons, baggage and personal effects must include use of the PIL which will be provided to screening personnel by the cruise ship terminal owner or operator.

(c) The list must be present at each screening location during screening operations. Additionally, the list must be included as part of the DoS.

(d) Facility personnel must report the discovery of a prohibited item introduced by violating security measures at a cruise ship terminal as a breach of security in accordance with § 101.305(b) of this subchapter. A prohibited item discovered during security screening is not considered to be a breach of security, and should be treated in accordance with local law enforcement practices.

§ 105.525 Terminal screening operations.

(a) *Passengers and personal effects.* (1) Each cruise ship terminal must have at least one location to screen passengers and carry-on items prior to allowing such passengers and carry-on items into secure areas of the terminal designated for screened persons and carry-on items.

(2) Screening locations must be adequately staffed and equipped to conduct screening operations in accordance with the approved TSP.

(3) Facility personnel must check personal identification prior to allowing a person to proceed to a screening location, in accordance with § 105.290(b), which sets forth additional requirements for cruise ship terminals at all MARSEC levels.

(4) All screened passengers and their carry-on items must remain in secure

areas of the terminal designated for screened persons and personal effects until boarding the cruise ship. Persons who leave a secure area must be re-screened.

(b) *Persons other than passengers.* Crew members, visitors, vendors, and other persons who are not passengers, and their personal effects, must be screened either at screening locations where passengers are screened or at another location that is adequately staffed and equipped in accordance with this subpart and is specifically designated in an approved TSP.

(c) *Checked baggage.* (1) A cruise ship terminal that accepts baggage must have at least one location designated for the screening of checked baggage.

(2) Screening personnel may only accept baggage from a person with—

(i) A valid passenger ticket;

(ii) Joining instructions;

(iii) Work orders; or

(iv) Authorization from the terminal or vessel owner or operator to handle baggage;

(3) Screening personnel may only accept baggage in an area designated in an approved TSP and manned by terminal screening personnel; and

(4) Screening or security personnel must constantly control the checked baggage, in a secure area, from the time it is accepted at the terminal until it is onboard the cruise ship.

(d) *Unaccompanied baggage.* (1) Facility personnel may accept unaccompanied baggage, as defined in § 101.105 of this subchapter, only if the Vessel Security Officer (VSO) provides prior written approval for the unaccompanied baggage.

(2) If facility personnel accept unaccompanied baggage at a cruise ship terminal, they must handle such baggage in accordance with paragraph (c) of this section.

§ 105.530 Qualifications of screeners.

In addition to the requirements for facility personnel with security duties contained in § 105.210, screening personnel at cruise ship terminals must—

(a) Have a combination of education and experience that the FSO has determined to be sufficient for the individual to perform the duties of the position; and

(b) Be capable of using all screening methods and equipment needed to perform the duties of the position.

§ 105.535 Training requirements of screeners.

In addition to the requirements for facility personnel with security duties in § 105.210, screening personnel at cruise ship terminals must demonstrate knowledge, understanding, and proficiency in the following areas as part of their security-related familiarization—

(a) Historic and current threats against the cruise ship industry;

(b) Relevant portions of the TSP and FSP;

(c) The purpose and contents of the cruise ship terminal PIL;

(d) Specific instruction on screening methods and equipment used at the cruise ship terminal;

(e) Terminal-specific response procedures when a dangerous substance or device is detected;

(f) Additional screening requirements at increased MARSEC levels; and,

(g) Any additional topics specified in the facility's approved TSP.

§ 105.540 Screener participation in drills and exercises.

Screening personnel must participate in drills and exercises required under § 105.220.

§ 105.545 Screening equipment.

The following screening equipment may be used, provided it is specifically documented in an approved TSP.

(a) *Metal detection devices.* (1) The owner or operator of a cruise ship terminal may use a metal detection device to screen persons, baggage, and personal effects.

(2) Metal detection devices used at any cruise ship terminal must be operated, calibrated, and maintained in accordance with manufacturer's instructions.

(b) *X-ray systems.* The owner or operator of a cruise ship terminal may use an x-ray system for the screening and inspection of personal effects and baggage if all of the following requirements are satisfied—

(1) The system meets the standards for cabinet x-ray systems used primarily for the inspection of baggage, found in 21 CFR 1020.40;

(2) Familiarization training for screeners, in accordance with § 105.535, includes training in radiation safety and the efficient use of x-ray systems;

(3) The system must meet the imaging requirements found in 49 CFR 1544.211;

(4) The system must be operated, calibrated, and maintained in accordance with manufacturer's instructions;

(5) The x-ray system must fully comply with any defect notice or modification order issued for that system by the Food and Drug Administration (FDA), unless the FDA has advised that a defect or failure to comply does not create a significant risk of injury, including genetic injury, to any person;

(6) The owner or operator must ensure that a sign is posted in a conspicuous place at the screening location where x-ray systems are used to inspect personal effects and where screeners accept baggage. These signs must—

(i) Notify individuals that items are being screened by x-ray and advise them to remove all x-ray, scientific, and high-speed film from their personal effects and baggage before screening;

(ii) Advise individuals that they may request screening of their photographic equipment and film packages be done without exposure to an x-ray system; and

(iii) Advise individuals to remove all photographic film from their personal effects before screening, if the x-ray system exposes any personal effects or baggage to more than one milliroentgen during the screening.

(c) *Explosives detection systems.* The owner or operator of a cruise ship terminal may use an explosives detection system to screen baggage and personal effects for the presence of explosives if it meets the following requirements:

(1) At locations where x-ray technology is used to inspect baggage or personal effects for explosives, the terminal owner or operator must post signs in accordance with paragraph (b)(6) of this section.

(2) All explosives detection equipment used at a cruise ship terminal must be operated, calibrated, and maintained in accordance with manufacturer's instructions.

§ 105.550 Alternative screening.

If the owner or operator of a U.S. cruise ship terminal chooses to screen using equipment or methods other than those described in § 105.545, the equipment and methods must be described in detail in an approved TSP.

PART 120—[REMOVED AND RESERVED]

■ 11. Under the authority of 33 U.S.C. 1231, remove and reserve part 120.

PART 128—[REMOVED AND RESERVED]

■ 12. Under the authority of 33 U.S.C. 1231, remove and reserve part 128.

Dated: March 8, 2018.

Jennifer F. Williams,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2018–05394 Filed 3–16–18; 8:45 am]

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Part III

Department of Commerce

Bureau of Industry and Security

15 CFR Part 705

Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum Into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum; Interim Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 705

[Docket No. 180227217–8217–01]

RIN 0694–AH55

Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamations Adjusting Imports of Steel Into the United States and Adjusting Imports of Aluminum Into the United States; and the Filing of Objections to Submitted Exclusion Requests for Steel and Aluminum

AGENCY: Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends the National Security Industrial Base Regulations to add two new supplements. The new supplements set forth the process for how parties in the United States may submit requests for exclusions from actions taken by the President (''exclusion requests'') to protect national security from threats resulting from imports of specified articles. The new supplements also set forth the requirements and process for how parties in the United States may submit objections to the granting of an exclusion request.

The supplements are being added to implement Presidential Proclamations 9704 and 9705 of March 8, 2018 (''Proclamations''), adjusting imports of steel articles identified in Proclamation 9705 (''steel'') and aluminum articles identified in Proclamation 9704 (''aluminum'') through the imposition of duties so that imports of steel articles and aluminum articles will no longer threaten to impair the national security. As set forth in the Proclamations, the President concurred with the findings of the Secretary of Commerce (''Secretary'') in two reports to the President on the investigations under section 232 of the Trade Expansion Act of 1962, as amended, of the effect of imports of steel and aluminum, respectively, on the national security of the United States. The Proclamations authorize the Secretary to grant exclusions from the duties upon request of affected parties if the steel or aluminum articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to set forth the procedures for an exclusion process.

DATES:

- *Effective date of interim final rule:* This interim final rule is effective March 19, 2018.
- *Comments on this interim final rule:* Comments on this interim final rule must be received by BIS no later than May 18, 2018.

See **SUPPLEMENTARY INFORMATION** section for information on submitting exclusion requests and objections thereto.

ADDRESSES: All comments on the interim final must be submitted by one of the following methods:

- *By the Federal eRulemaking Portal: http://www.regulations.gov.* Comments on the interim final rule may be submitted to *regulations.gov* docket number BIS–2018–0006 or to BIS–2018–0002, or to both docket numbers.
- By email directly to *publiccomments@bis.doc.gov.* Include RIN 0694–AH55 in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230. Refer to RIN 0694–AH55.

All exclusion requests and objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*).

Steel: This interim final rule can be found by searching for its *regulations.gov* docket number, BIS–2018–0006, which is the document number being used for the steel exclusion requests and objection requests.

Aluminum: This interim final rule can also be found by searching for its *regulations.gov* docket number, BIS–2018–0002, which is the document number being used for the aluminum exclusion requests and objection requests.

All exclusion requests, objections to submitted exclusion requests, and comments on the interim final rule will be made available for public inspection and copying. All exclusion requests, objections to submitted exclusion requests, and comments on the interim final rule will be made available for public inspection and copying. Information that is subject to government-imposed access and dissemination or other specific national security controls, *e.g.,* classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Additionally, personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Individuals and organizations submitting exclusion requests or an objection to submitted exclusion requests are responsible for ensuring such information is not included. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

Comments on the interim final rule may be submitted to *regulations.gov* docket number BIS–2018–0006 or to BIS–2018–0002, or to both docket numbers.

Exclusion requests and objections to submitted exclusion requests must be submitted to the respective document number for steel or aluminum.

FOR FURTHER INFORMATION CONTACT: Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce (202) 482–5642, *Steel232@bis.doc.gov* regarding steel exclusion requests and (202) 482–4757, *Aluminum232@bis.doc.gov* regarding aluminum exclusion requests.

SUPPLEMENTARY INFORMATION:

Background

On April 19, 2017, the Secretary initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of steel. On April 20, 2017, the President signed a memorandum directing the Secretary to proceed expeditiously in conducting his investigation and submit a report on his findings to the President. The President further directed that if the Secretary finds that steel is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall recommend actions and steps that should be taken to adjust steel imports so that they will not threaten to impair the national security.

On April 26, 2017, the Secretary initiated an investigation under section

232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of aluminum. On April 27, 2017, the President signed a memorandum directing the Secretary to proceed expeditiously in conducting his investigation and submit a report on his findings to the President. The President further directed that if the Secretary finds that aluminum is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall recommend actions and steps that should be taken to adjust aluminum imports so that they will not threaten to impair the national security.

On March 8, 2018, the President issued Proclamations 9704 and 9705 concurring with the findings of the two reports and determining that adjusting imports through the imposition of duties on steel articles and aluminum articles is necessary so that imports of steel and aluminum will no longer threaten to impair the national security. The Key Findings of the Steel and Aluminum Reports, Recommendations of the Steel and Aluminum Reports, and web links to the January 11, 2018 Steel Report, and the January 17, 2018 Aluminum Report are available on the Department of Commerce website: *https://www.commerce.gov/news/press-releases/2018/02/secretary-ross-releases-steel-and-aluminum-232-reports-coordination.*

The Proclamations also authorized the Secretary, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior executive branch officials as appropriate, to grant exclusions from the duties for domestic parties affected by the duties, if the Secretary determines the steel or aluminum article for which the exclusion is requested is not produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or should be excluded based upon specific national security considerations. The President directed the Secretary to promulgate regulations as may be necessary to implement an exclusion process.

This interim final rule amends the National Security Industrial Base Regulations (15 CFR parts 700–705) to add two new supplements to part 705 which set forth the requirements and process for how parties in the United States may submit requests for exclusions from the remedies instituted by the President in the Proclamations (''exclusion requests''). The new supplements also set forth the requirements and process for how parties in the United States may submit objections to the granting of exclusion requests.

Only individuals or organizations using steel articles identified in Proclamation 9705 in business activities (*e.g.,* construction, manufacturing, or supplying steel to users) in the United States may submit exclusion requests with respect to that Proclamation. This limitation recognizes the close relation of the economic welfare of the Nation to our national security by affording those who contribute to that economic welfare through business activities in the United States the opportunity to submit exclusion requests based on particular economic and national security considerations. Allowing individuals or organizations not engaged in business activities in the United States to seek exclusion requests could undermine the adjustment of imports that the President determined was necessary to address the threat to national security posed by the current import of steel articles. Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

Only individuals or organizations using aluminum articles identified in Proclamation 9704 in business activities (*e.g.,* construction, manufacturing, or supplying aluminum to users) in the United States may submit exclusion requests. This limitation recognizes the close relation of the economic welfare of the Nation to our national security by affording those who contribute to that economic welfare through business activities in the United States the opportunity to submit exclusion requests based on particular economic and national security considerations. Allowing individuals or organizations not engaged in business activities in the United States to seek exclusion requests could undermine the adjustment of imports that the President determined was necessary to address the threat to national security posed by the current import of aluminum articles. Any individual or organization in the United States may file objections to exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

Approved exclusions will be made on a product basis and will be limited to the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product based exclusion request to apply to additional importers.

Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product already approved for exclusion may submit an exclusion request under the two new supplements. Such follow-on requesters of exclusion requests are not required to reference a previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request.

In addition, individuals and organizations will not be precluded from submitting a request for exclusion of a product where a previous exclusion request for the same product had been denied or is no longer valid. For example, it might be that the first exclusion request was inadequate to demonstrate the criteria were met for approving that exclusion request. The later requester should, however, submit new or different information in an attempt to meet the criteria for approving an exclusion request for that product.

Addition of New Supplements

This interim final rule amends part 705 (Effects of Imported Articles on the National Security) by adding Supplement No. 1—Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel into the United States. This interim final rule also amends part 705 by adding Supplement No. 2—Requirements for Submissions Requesting Exclusions from the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 Adjusting Imports of Aluminum into the United States. The two new supplements specify the requirements and process for how parties may submit exclusion requests. The new supplements also specify the requirements and process for how parties may submit objections to exclusion requests.

The two new supplements follow the same structure, but have different criteria based on the differences between the steel and aluminum industries.

These new supplements consist of introductory text that describe the Section 232 steel or aluminum Proclamation issued by the President imposing duties on the imports of steel articles and aluminum articles.

Paragraph (a)(*Scope*) defines the scope of the supplement.

Paragraph (b)(*Required forms*) identifies the forms that must be used to submit an exclusion request or an objection to an exclusion request pursuant to each new supplement. Paragraph (b) also describes the requirements to provide the requested information on the applicable form in order to submit an exclusion request or an objection to a submitted exclusion request. Paragraph (b)(3)(*Public disclosure*) specifies that information included in exclusion requests and objections to submitted exclusion requests will be subject to public disclosure. Paragraph (b)(3) also specifies that personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, *e.g.,* classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

The criteria in paragraph (b) of each supplement are slightly different to make the paragraph specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2; otherwise, paragraph (b) follows the same structure in the two new supplements. The *regulations.gov* docket number is different for Supplement No. 1 and Supplement No. 2, as is the BIS website address where copies of the respective forms may be located.

Paragraph (c)(*Exclusion requests*) describes additional requirements for submitting exclusion requests. Paragraphs (c)(1) to (4) specify which individuals or organizations may submit exclusion requests, how exclusion requests must be identified and submitted in *regulations.gov*, and the time limit for submitting exclusion requests. All exclusion requests must be in electronic form, but may be submitted at any time. Paragraph (c)(5) specifies the substance that must be addressed in an exclusion request. The criteria in paragraph (c) of each supplement are slightly different to make the paragraphs specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2, but otherwise follow the same structure in the two new supplements.

Paragraph (d)(*Objections to submitted exclusion requests*) describes additional requirements for submitting objections to submitted exclusion requests. Paragraphs (d)(1) to (3) specify how objections must be identified and submitted in *regulations.gov* and the time limit for submitting objections to submitted exclusion requests. All objections to the granting of an exclusion request must be in electronic form and submitted no later than 30 days after the related exclusion request is posted. Paragraph (d)(4) specifies the substance that must be addressed in an objection. The criteria in paragraph (d) of each supplement are slightly different to make the paragraphs specific to steel in Supplement No. 1 and specific to aluminum in Supplement No. 2, but otherwise follow the same structure in the two new supplements.

Paragraph (e)(*Limitations on the size of submissions*) applies to exclusion requests and objections to submitted exclusion requests. Paragraph (e) imposes a page limit on any exclusion request or objection to a submitted exclusion request. The respective forms are not counted for determining the page limitation.

Paragraph (f)(*Disposition of exclusion requests and objections to submitted exclusion requests*), includes a paragraph (f)(1) to specify what happens to exclusion requests and objections to submitted exclusion requests that do not satisfy all of the requirements in the supplement. Paragraph (f)(2) describes how BIS will respond to complete submissions for exclusion requests and objections to submitted exclusion requests. Paragraph (f)(2) also states that the BIS response to an exclusion request will also be responsive to any objection(s) for that submitted exclusion request. BIS will have a single response to each exclusion request that will be posted in *regulations.gov*. This single BIS response will also take into account any objection(s) to the submitted exclusion request.

Paragraph (g)(*For further information*) will identify the point of contact for further questions on the two new supplements.

Relationship Between Country-Based Exemptions Specified in the Presidential Proclamations, and the Product-Based Exclusion and Objection Process Included in This Rule

The process described above for the two new supplements is separate and apart from the process by which countries may seek exemptions from the duties imposed by the President. The process established in this interim final rule is limited to the issuance of product-based exclusions as authorized by the President. Consistent with the President's instructions, the criteria in the forms and supplements are primarily focused on the availability of the product in the United States. The Secretary will consider information about supply in other countries to the extent relevant to determining whether specific national security considerations warrant an exclusion. Commenters on this interim final rule may submit comments regarding how and whether or not the country of origin of a proposed product should be considered by Commerce as part of the process for reviewing product-based exclusion requests.

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 a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. However, as stated under Section 4 of Presidential Proclamation 9704 and Section 4 of Proclamation 9705 of March 8, 2018, this rule is exempt from Executive Order 13771 (82 FR 9339, February 3, 2017).

2. The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA) provides that an agency generally cannot conduct or sponsor a collection of information, and no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, unless that collection has obtained Office of Management and Budget (OMB) approval and displays a currently valid OMB Control Number.

The Commerce Department requested and OMB authorized emergency processing of two information collections involved in this rule, consistent with 5 CFR 1320.13. The Presidential Proclamations authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions for the import of goods not currently available in the United States in a sufficient quantity or satisfactory quality, or for other specific national security reasons. He further directed the Secretary to establish the process for submitting and granting these requests for exclusions within 10 days, and this interim final rule fulfills that direction. The immediate implementation of an effective exclusion request process, consistent with the intent of the Presidential Proclamations, also requires creating a process to allow any individual or organization in the United States to submit objections to submitted exclusion requests. The Department has determined the following conditions have been met:

a. The collection of information is needed prior to the expiration of time periods normally associated with a routine submission for review under the provisions of the Paperwork Reduction Act in view of the President's proclamations issued on March 8, 2018, for the Presidential Proclamation on Adjusting Imports of Steel into the United States, *https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-steel-united-states/,* and for the Presidential Proclamation on Adjusting Imports of Aluminum into the United States, *https://www.whitehouse.gov/presidential-actions/presidential-proclamation-adjusting-imports-aluminum-united-states/.*

b. The collection of information is essential to the mission of the Department, in particular to the adjudication of exclusion requests and objections to exclusions requests.

c. The use of normal clearance procedures would prevent the collection of information of exclusion requests and objections to exclusion requests, for national security purposes, as discussed under section 232 of the Trade Expansion Act of 1962 as amended and the Presidential Proclamations issued on March 8, 2018.

Commerce Department intends to provide separate 60-day notice in the **Federal Register** requesting public comment on the information collections contained within this rule.

Agency: Commerce Department.

Type of Information Collection: New Collection.

Title of the Collection: Procedures for Submitting Requests for Exclusions from the Remedies Instituted by the President in the Presidential Proclamations 9705 and 9704 of March 8, 2018 Adjusting Imports of Steel into the United States and Adjusting Imports of Aluminum into the United States.

Affected Public: Private Sector—Businesses.

Total Estimated Number of Respondents: [4,500].

Average Responses per Year: [1].

Total Estimated Number of Responses: [4,500].

Average Time per Response: 4 hours.

Total Annual Time Burden: [18,000].

Type of Information Collection: [New Collection].

OMB Control Number: [0694–0139].

Title of the Collection: Objection Filing to Posted Section 232 Exclusion Request: Steel; and Objection Filing to Posted Section 232 Exclusion Request: Aluminum, respectively.

Affected Public: Private Sector—Businesses.

Total Estimated Number of Respondents: [1,500].

Average Responses per Year: [1].

Total Estimated Number of Responses: [1,500].

Average Time per Response: [4].

Total Annual Time Burden: [6,000].

Type of Information Collection: [New Collection].

OMB Control Number: [0694–0138].

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)). As explained in the reports submitted by the Secretary to the President, steel and aluminum are being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security of the United States and therefore the President is implementing these remedial actions (as described Proclamations 9704 and 9705 of March 8, 2018) to protect U.S. national security interests. That implementation includes the creation of a process by which affected domestic parties can obtain exclusion requests ''based upon specific national security considerations.''

In addition, the Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment and under 5 U.S.C. 553(d)(3) to waive the delay in effective date because such delays would be either impracticable or contrary to the public interest. In order to ensure that the actions taken to adjust imports do not undermine users of steel or aluminum that are subject to the remedial actions instituted by the Proclamations and are critical to protecting the national security of the United States, the Presidential Proclamations authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions for the import of goods not currently available in the United States in a sufficient quantity or satisfactory quality, or for other specific national security reasons. He further directed the Secretary to, within 10 days, issue procedures for submitting and granting these requests for exclusions and this interim final rule fulfills that direction. The immediate implementation of an effective exclusion request process, consistent with the intent of the Presidential Proclamations, also requires creating a process to allow any individual or organization in the United States to submit objections to submitted exclusion requests.

If this interim final rule was delayed to allow for public comment or for thirty days before companies in the U.S. were allowed to request exclusions from the remedies instituted by the President, those entities could face significant economic hardship that could potentially create a detrimental effect on the general U.S. economy. Likewise, our national security could be harmed if particular national security considerations justify an exclusion, but the process for obtaining such exclusion were delayed.

Because a notice of proposed rulemaking and an opportunity for prior public comment are not required 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.

Pursuant to Proclamations 9704 and 9705 of March 8, 2018, the establishment of procedures for an exclusion process under each Proclamation shall be published in the **Federal Register** and are exempt from Executive Order 13771.

List of Subjects in 15 CFR Part 705

Administrative practice and procedure, Business and industry, Classified information, Confidential business information, Imports, Investigations, National Security.

For the reasons set forth in the preamble, part 705 of Subchapter A, National Security Industrial Base Regulations, of 15 CFR chapter VII, is amended as follows:

PART 705—[AMENDED]

■ 1. The authority citation for part 705 is revised to read as follows:

Authority: Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) and Reorg. Plan No. 3 of 1979 (44 FR 69273, December 3, 1979).

■ 2. Part 705 is amended by adding Supplement No. 1 and Supplement No. 2 to read as follows:

Supplement No. 1 to Part 705—Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamation 9705 of March 8, 2018 Adjusting Imports of Steel Articles Into the United States

On March 8, 2018, the President issued Proclamation 9705 concurring with the findings of the January 11, 2018 report of the Secretary of Commerce on the effects of imports of steel mill articles (steel articles) identified in Proclamation 9705 (''steel'') on the national security and determining that adjusting steel imports through the imposition of duties is necessary so that imports of steel will no longer threaten to impair the national security. The Proclamation also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions from the duties for parties in the United States affected by the duties if the steel articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations.

(a) *Scope.* This supplement specifies the requirements and process for how parties in the United States may submit requests for exclusions from the remedies instituted by the President. This supplement also specifies the requirements and process for how parties in the United States may submit objections to submitted exclusion requests. This supplement identifies the time periods for which such exclusion requests and objections to submitted exclusion requests may be submitted, the method for submitting such requests, and the information that must be included in exclusion requests and objections to submitted exclusion requests.

(b) *Required forms.* BIS has posted two separate fillable forms on the BIS website at *https://www.bis.doc.gov/index.php/232-steel* and on the Federal rulemaking portal (*http://www.regulations.gov*) that are to be used by organizations for submitting exclusion requests, and objections to exclusion requests described in this supplement. On *regulations.gov*, you can find these two forms by searching for its *regulations.gov* docket number, which is BIS–2018–0006. The U.S. Department of Commerce requires requesters and objectors to use the appropriate form as specified under paragraphs (b)(1) and (b)(2) of this supplement for submitting exclusion requests and objections to submitted exclusion requests.

(1) *Form required for submitting exclusion requests.* The name of the form used for submitting exclusion requests is *Request for Exclusion from Remedies Resulting from the Section 232 National Security Investigation of Imports of Steel.*

(2) *Form required for submitting objections to submitted exclusion requests.* The name of the form used for submitting objections to submitted exclusion requests is *Response Form for Objections to Posted Section 232 Exclusion Requests—Steel.*

(3) *Public disclosure.* Information submitted in exclusion requests and objections to submitted exclusion requests will be subject to public review and made available for public inspection and copying. Personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, *e.g.,* classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

Note to Paragraph (b) for Submission of Supporting Documents (Attachments): *Supporting attachments must be submitted to regulations.gov as PDF documents.*

(c) *Exclusion requests.*

(1) *Who may submit an exclusion request*? Only individuals or organizations using steel in business activities (*e.g.,* construction, manufacturing, or supplying steel product to users) in the United States may submit exclusion requests.

(2) *Identification of exclusion requests.* The file name of the submission must include the submitter's name, date of submission, and the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number. For example, if Company A is submitting an exclusion request on June 1, 2018, the file should be named as follows: ''Company A exclusion request of 6–1–18 for 7207200045 HTSUS.'' Separate exclusion requests must be submitted for steel products with chemistry by percentage breakdown by weight, metallurgical properties, surface quality (*e.g.,* galvanized, coated, etc.), and distinct critical dimensions (*e.g.,* 0.25-inch rebar, 0.5-inch rebar; 0.5-inch sheet, or 0.75 sheet) covered by a common HTSUS subheading. Separate exclusion requests must also be submitted for products falling in more than one 10-digit HTSUS statistical reporting number. The Commerce Department will approve exclusions on a product basis and the approvals will be limited to the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product-based exclusion request to apply to additional importers. Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product that has already been the subject of an approved exclusion request may submit an exclusion under this supplement. These additional exclusion requests by other individuals or organizations in the United States are not required to reference the previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request. Individuals and organizations in the United States will not be precluded from submitting a request for exclusion of a product even though an exclusion request submitted for that product by another requester or that requester was denied or is no longer valid.

(3) *Where to submit exclusion requests*? All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*). You can find the interim final rule that added this supplement by searching for the *regulations.gov* docket number, which is BIS–2018–0006.

(4) *No time limit for submitting exclusion requests.* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*), but may be submitted at any time.

(5) *Substance of exclusion requests.* An exclusion request must specify the business activities in the United States within which the requester is engaged that authorize the individual or organization to submit an exclusion request. The request should clearly identify, and provide support for, the basis upon which the exclusion is sought. An exclusion will only be granted if an article is not produced in the United States in a sufficient and reasonably available amount, is not produced in the United States in a satisfactory quality, or for a specific national security consideration.

(d) *Objections to submitted exclusion requests.*

(1) *Who may submit an objection to a submitted exclusion request*? Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

(2) *Identification of objections to submitted exclusion requests.* When submitting an objection to a submitted exclusion request, the objector must locate the exclusion request and submit a comment on the submitted exclusion request in *regulations.gov.* The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company B is submitting on April 1, 2018, an objection to an exclusion request submitted on March 15, 2018 by Company A, the file should be named: ''Company B objection_4–1–18 for Company A exclusion request_3–15–18.'' In *regulations.gov* once an objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(3) *Time limit for submitting objections to submitted exclusions requests.* All objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*) no later than 30 days after the related exclusion request is posted.

(4) *Substance of objections to submitted exclusion requests.* The objection should clearly identify, and provide support for, its opposition to the proposed exclusion, with reference to the specific basis identified in, and the support provided for, the submitted exclusion request.

(e) *Limitations on the size of submissions.* Each exclusion request and each objection to a submitted exclusion request is to be limited to a maximum of 25 pages, respectively, inclusive of all exhibits and attachments, but exclusive of the respective forms. Any further information required will be determined and requested solely by the U.S. Department of Commerce.

(f) *Disposition of exclusion requests and objections to submitted exclusion requests.*

(1) *Disposition of incomplete submission.*

(A) Exclusion requests that do *not* satisfy the reporting requirements specified in paragraph (b) of this supplement will be denied.

(B) Objection filings that do not satisfy the specified reporting requirements will not be considered.

(2) *Disposition of complete submissions.* The U.S. Department of Commerce will post responses in *regulations.gov* to each exclusion request submitted under docket number BIS–2018–0006. The BIS response to an exclusion request will also be responsive to any of the objection request(s) for that submitted exclusion request submitted under docket number BIS–2018–0006. Approved exclusions will be effective five business days after publication of the responses in *regulations.gov.* Starting on that date, the requester will be able to rely upon the approved exclusion request in calculating the duties owed on the product imported in accordance with the terms listed in the approved exclusion request. Exclusions will generally be approved for one year.

(3) *Review period and implementation of any needed conforming changes.* The review period normally will not exceed 90 days, including adjudication of objections submitted on exclusion requests. Other agencies of the U.S. Government, such as the United States International Trade Commission (USITC) and U.S. Customs and Border Protection (CBP), will take any additional steps needed to implement an approved exclusion request. The U.S. Department of Commerce will provide CBP with information that will identify each approved exclusion request pursuant to this supplement. Individuals or organizations whose exclusion requests are approved must report information concerning any applicable exclusion in such form as CBP may require. These exclusion identifiers will be used by importers in the data collected by CBP in order for CBP to determine whether an import is within the scope of an approved exclusion request.

(g) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–5642, *Steel232@bis.doc.gov* regarding steel exclusion requests and (202) 482–4757, *Aluminum232@bis.doc.gov* regarding aluminum exclusion requests.

Supplement No. 2 to Part 705—Requirements for Submissions Requesting Exclusions From the Remedies Instituted in Presidential Proclamation 9704 of March 8, 2018 to Adjusting Imports of Aluminum Into the United States

On March 8, 2018, the President issued Proclamation 9704 concurring with the findings of the January 17, 2018 report of the Secretary of Commerce on the investigation into the effects of imports of aluminum identified in Proclamation 9704 (''aluminum'') on the national security and determining that adjusting aluminum imports through the imposition of duties is necessary so that imports of aluminum will no longer threaten to impair the national security. The Proclamation also authorized the Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, the United States Trade Representative, the Assistant to the President for Economic Policy, the Assistant to the President for National Security Affairs, and other senior Executive Branch officials as appropriate, to grant exclusions from the duties for parties in the United States affected by the duties if the aluminum articles are determined not to be produced in the United States in a sufficient and reasonably available amount or of a satisfactory quality or based upon specific national security considerations.

(a) *Scope.* This supplement specifies the requirements and process for how parties in the United States may submit requests for exclusions from the remedies instituted by the President. This supplement also specifies the requirements and process for how parties in the United States may submit objections to submitted exclusion requests. This supplement identifies the time periods for which such exclusion requests and objections to submitted exclusion requests may be submitted, the method for submitting such requests, and the information that must be included in exclusion requests and objections to submitted exclusion requests.

(b) *Required forms.* BIS has posted two separate fillable forms on the BIS website at *https://www.bis.doc.gov/index.php/232-aluminum* and on the Federal rulemaking portal (*http://www.regulations.gov*) that are to be used by organizations for submitting exclusion requests, and objections to exclusion requests described in this supplement. On *regulations.gov*, you can find these two forms by searching for its *regulations.gov* docket number, which is BIS–2018–0002. The U.S. Department of Commerce requires requesters and objectors to use the appropriate form as specified under paragraphs (b)(1) and (b)(2) for submitting exclusion requests and objections to submitted exclusion requests.

(1) *Form required for submitting exclusion requests.* The name of the form used for submitting exclusion requests is *Request for Exclusion from Remedies Resulting from the Section 232 National Security Investigation of Imports of Aluminum.*

(2) *Form required for submitting objections to submitted exclusion requests.* The name of the form used for submitting objections to submitted exclusion requests is *Response Form for Objections to Posted Section 232 Exclusion Requests—Aluminum.*

(3) *Public disclosure.* Information submitted in exclusion requests and objections to submitted exclusion requests will be subject to public review and made available for public inspection and copying. Personally identifiable information, including social security numbers and employer identification numbers, should not be provided. Information that is subject to government-imposed access and dissemination or other specific national security controls, *e.g.,* classified information or information that has U.S. Government restrictions on dissemination to non-U.S. citizens or other categories of persons that would prohibit public disclosure of the information, may not be included in exclusion requests or objections to submitted exclusion requests. Individuals and organizations that have proprietary or otherwise business confidential information that they believe relevant to the Secretary's consideration of the submitted exclusion request or objections to submitted exclusion requests should so indicate in the appropriate field of the relevant form. Individuals and organization must otherwise fully complete the relevant forms.

Note to Paragraph (b) for Submission of Supporting Documents (Attachments): *Supporting attachments must be submitted to regulations.gov as PDF documents.*

(c) *Exclusion requests.*

(1) *Who may submit an exclusion request*? Only individuals or organizations using

aluminum in business activities (*e.g.,* construction, manufacturing, or supplying aluminum product to users) in the United States may submit exclusion requests.

(2) *Identification of exclusion requests.* The file name of the submission must include the submitter's name, date of submission, and the 10-digit Harmonized Tariff Schedule of the United States (HTSUS) statistical reporting number. For example, if Company A is submitting an exclusion request on June 1, 2018, the file should be named as follows: ''Company A exclusion request of 6–1–18 for 7604293050 HTSUS.'' Separate exclusion requests must be submitted for aluminum products with distinct critical dimensions (*e.g.,* 10 mm diameter bar, 15 mm bar, or 20 mm bar) covered by a common HTSUS statistical reporting number. Separate exclusion requests must also be submitted for products falling in more than one 10-digit HTSUS statistical reporting number. The Commerce Department will approve exclusions on a product basis and the approvals will be limited to the individual or organization that submitted the specific exclusion request, unless Commerce approves a broader application of the product-based exclusion request to apply to additional importers. Other individuals or organizations that wish to submit an exclusion request for a steel or aluminum product that has already been the subject of an approved exclusion request may submit an exclusion under this supplement. These additional exclusion requests by other individuals or organizations in the United States are not required to reference the previously approved exclusion, but Commerce may take that into account when reviewing a subsequent exclusion request. Individuals and organizations in the United States will not be precluded from submitting a request for exclusion of a product even though an exclusion request submitted for that product by another requester or that requester was denied or is no longer valid.

(3) *Where to submit exclusion requests*? All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*). You can find the interim final rule that added this supplement by searching for the *regulations.gov* docket number, which is BIS–2018–0002.

(4) *No time limit for submitting exclusion requests.* All exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*), but may be submitted at any time.

(5) *Substance of exclusion requests.* An exclusion request must specify the business activities in the United States within which the requester is engaged that authorize the individual or organization to submit an exclusion request. The request should clearly identify, and provide support for, the basis upon which the exclusion is sought. An exclusion will only be granted if an article is not produced in the United States in a sufficient and reasonably available amount, is not produced in the United States in a satisfactory quality, or for a specific national security consideration.

(d) *Objections to submitted exclusion requests.*

(1) *Who may submit an objection to a submitted exclusion request*? Any individual or organization in the United States may file objections to steel exclusion requests, but the Commerce Department will only consider information directly related to the submitted exclusion request that is the subject of the objection.

(2) *Identification of objections to submitted exclusion requests.* When submitting an objection to a submitted exclusion request, the objector must locate the exclusion request and submit a comment on the submitted exclusion request in *regulations.gov*. The file name of the objection submission should include the objector's name, date of submission of the objection, name of the organization that submitted the exclusion request, and date the exclusion request was posted. For example, if Company X is submitting on April 1, 2018, an objection to an exclusion request submitted on March 15, 2018 by Company A, the file should be named: ''Company X objection_4–1–18 for Company A exclusion request_3–15–18.'' In *regulations.gov* once an objection to a submitted exclusion request is posted, the objection will appear as a document under the related exclusion request.

(3) *Time limit for submitting objections to submitted exclusions requests.* All objections to submitted exclusion requests must be in electronic form and submitted to the Federal rulemaking portal (*http://www.regulations.gov*) no later than 30 days after the related exclusion request is posted.

(4) *Substance of objections to submitted exclusion requests.* The objection should clearly identify, and provide support for, its opposition to the proposed exclusion, with reference to the specific basis identified in, and the support provided for, the submitted exclusion request.

(e) *Limitations on the size of submissions.* Each exclusion request and each objection to a submitted exclusion request is to be limited to a maximum of 25 pages, respectively, inclusive of all exhibits and attachments, but exclusive of the respective forms. Any further information required will be determined and requested solely by the U.S. Department of Commerce.

(f) *Disposition of exclusion requests and objections to submitted exclusion requests.*

(1) *Disposition of incomplete submission.*

(A) Exclusion requests that do *not* satisfy the reporting requirements specified in paragraph (b) of this supplement will be denied.

(B) Objection filings that do not satisfy the reporting requirements specified in paragraph (b) will not be considered.

(2) *Disposition of complete submissions.* The U.S. Department of Commerce will post responses in *regulations.gov* to each exclusion request submitted under docket number BIS–2018–0002. The BIS response to an exclusion request will also be responsive to any of the objection request(s) for that submitted exclusion request submitted under docket number BIS–2018–0002. Approved exclusions will be effective five business days after publication of the responses in *regulations.gov.* Starting on that date, importers will be considered to be excluded. Exclusions will generally be approved for one year.

(3) *Review period and implementation of any needed conforming changes.* The review period normally will not exceed 90 days, including adjudication of objections submitted on exclusion requests. Other agencies of the U.S. Government, such as she United States International Trade Commission (USITC) and U.S. Customs and Border Protection, will take any additional steps needed to implement an approved exclusion request. The U.S. Department of Commerce will provide CBP with information that will identify each approved exclusion request pursuant to this supplement. Importers are directed to report information concerning any applicable exclusion granted by Commerce in such form as CBP may require. These exclusion identifiers will be used by importers in the data collected by CBP in order for CBP to determine whether an import is within the scope of an approved exclusion request.

(g) *For further information.* If you have questions on this supplement, you may contact Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce, (202) 482–5642, *Steel232@bis.doc.gov* regarding steel exclusion requests and (202) 482–4757, *Aluminum232@bis.doc.gov* regarding aluminum exclusion requests.

Wilbur L. Ross,

Secretary of Commerce.

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