AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 83 Friday,

No. 92 May 11, 2018

Pages 21841–22176

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 83 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 83, No. 92

Friday, May 11, 2018

Agency for Healthcare Research and Quality
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22066

Agricultural Marketing Service
RULES
Marketing Orders:
Milk in the Florida Marketing Area, 21843–21846
Marketing Orders; Amendments:
Walnuts Grown in California, 21841–21843
PROPOSED RULES
Free and Restricted Percentages; 2017–18 Crop Year Tart Cherries:
Grown in the States of Michigan, et al., 21941–21946
NOTICES
Requests for Nominations:
Peanut Standards Board, 21997

Agriculture Department
See Agricultural Marketing Service
See Animal and Plant Health Inspection Service
See Forest Service
See National Institute of Food and Agriculture
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 21997–21998
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 21998

Animal and Plant Health Inspection Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Endangered Species Regulations and Forfeiture Procedures, 21999–22000
Importation of Mangoes from Australia, 21999

Bureau of Safety and Environmental Enforcement
PROPOSED RULES
Oil and Gas and Sulfur Operations in Outer Continental Shelf:
Blowout Preventer Systems and Well Control Revisions, 22128–22162

Centers for Disease Control and Prevention
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22067–22077
Meetings:
Advisory Board on Radiation and Worker Health, National Institute for Occupational Safety and Health, 22072
CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment, 22078

Centers for Medicare & Medicaid Services
RULES
Medicare Program:
Durable Medical Equipment Fee Schedule Adjustments to Resume the Transitional 50/50 Blended Rates to Provide Relief in Rural Areas and Non-Contiguous Areas, 21912–21925
Patient Protection and Affordable Care Act:
Benefit and Payment Parameters for 2019; Correction, 21925–21927
NOTICES
Meetings:
Medicare Evidence Development and Coverage Advisory Committee, 22078–22079

Civil Rights Commission
NOTICES
Meetings:
Arkansas Advisory Committee, 22004–22005
Rhode Island Advisory Committee, 22003–22004

Coast Guard
RULES
Safety Zones:
Barge PFE–LB444, San Joaquin River, Blackslough Landing, CA, 21883–21885
Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL, 21885
Coast Guard Sector Ohio Valley Annual and Recurring Update, 21888–21893
Cocos Lagoon, Merizo, GU, 21886–21887
Corpus Christi Hooks Baseball Team/Friday Night Fireworks, 21885–21886
Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI, 21876–21883
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22092–22093

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 22034–22035

Community Development Financial Institutions Fund
NOTICES
Funding Availability:
Notice of Allocation Availability Inviting Applications for the Calendar Year 2018 Allocation Round of the New Markets Tax Credit Program, 22115–22124

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application package for Graduate Assistance in Areas of National Need Program, 22035–22036
Pell Grant Reporting under the Common Origination and Disbursement System, 22036
Applications for New Awards:
Teacher Quality Partnership Grant Program, 22036–22049

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Kentucky; Fine Particulate Matter and Ozone National Ambient Air Quality Standards Revisions, 21907–21909
Extension of Deadline for Action on the Section 126(b) Petition From New York, 21909–21912
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Idaho; Pinehurst PM_{10} Redesignation, Limited Maintenance Plan; West Silver Valley 2012 Annual $PM_{2.5}$ Emission Inventory, 21976–21983
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Drug Testing for Contractor Employees (Renewal), 22059–22060
Environmental Impact Statements; Availability, etc.:
Weekly Receipts, 22060–22061
Proposed CERCLA Cost Recovery Settlements:
Global Landfill Superfund Site, Middlesex County, NJ, 22061
Requests for Nominations:
Hazardous Waste Electronic Manifest System Advisory Board, 22058–22059

Federal Aviation Administration
RULES
Accepted Means of Compliance:
Airworthiness Standards: Normal Category Airplanes, 21850–21855
Airworthiness Directives:
Airbus Airplanes, 21858–21867
Bombardier, Inc., Airplanes, 21855–21858
The Boeing Company Airplanes, 21867–21870
Establishment of Class E Airspace:
Manley Hot Springs, AK, 21870–21871
Paris, ID, 21871–21872
PROPOSED RULES
Airworthiness Directives:
Airbus Airplanes, 21955–21961
Airbus Helicopters, 21964–21966
Bombardier, Inc., Airplanes, 21966–21968
Dassault Aviation Airplanes, 21953–21955
Pacific Aerospace Limited Airplanes, 21951–21953, 21962–21963
The Boeing Company Airplanes, 21946–21951
Amendment of Class D and Class E Airspace:
Aspen, CO, 21968–21970
Amendment of Class E Airspace:
Kemmerer, WY, 21970–21972
NOTICES
Environmental Assessments; Availability, etc.:
Cleveland/Detroit Metroplex, 22113

Federal Communications Commission
RULES
Restoring Internet Freedom, 21927–21928
PROPOSED RULES
Radio Broadcasting Services:
Connerville, OK, 21995–21996
Rural Call Completion, 21983–21995
NOTICES
Radio Broadcasting Services:
AM or FM Proposals to Change the Community of License, 22061

Federal Deposit Insurance Corporation
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22061–22064

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22051–22053
Applications:
Perryville Gas Storage LLC, 22054
Transcontinental Gas Pipe Line Company, LLC, 22055–22056
Combined Filings, 22049–22051, 22055–22057
Complaints:
Public Service Electric and Gas Co. v. Consolidated Edison Co. of New York, Inc., 22051
Hydroelectric Applications:
Duke Energy Carolinas, LLC, 22057–22058
Institution of Section 206 Proceedings:
Longview Power, LLC, 22054–22055

Federal Highway Administration
PROPOSED RULES
Design Standards for Highways, 21972–21976

Federal Railroad Administration
NOTICES
Buy America Waivers:
North Carolina Department of Transportation; Certain Non-Domestic Components of a Fire Alarm System, 22114–22115

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 22064

Fish and Wildlife Service
RULES
Endangered and Threatened Species:
Reclassifying Echinocereus fendleri var. kuenzleri from Endangered to Threatened, 21928–21936

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Pilot Project Program Under the Drug Supply Chain Security Act, 22085–22087
Request for Samples and Protocols, 22081–22083

Determinations that Products Were Not Withdrawn from Sale for Reasons of Safety or Effectiveness:
SODIUM IODIDE I 123 (Sodium Iodide I–123), Oral Solution, 2 Millicuries/Milliliter, 22079–22080
Guidance:
Facility Definition Under the Federal Food, Drug, and Cosmetic Act, 22083–22085
Meetings:
Circulatory System Devices Panel of the Medical Devices Advisory Committee, 22080–22081

Foreign-Trade Zones Board
NOTICES
Reorganizations and Expansions under Alternative Site Framework:
Foreign-Trade Zone 198; Volusia and Flagler Counties, FL, 22005

Forest Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals
Commercial Use of the Woodsy Owl Symbol, 22002–22003
Environmental Impact Statements; Availability, etc.:
Rogue River-Siskiyou National Forest and Umpqua National Forest; Oregon; Stella Landscape Restoration Project, 22000–22002
Superior National Forest; Minnesota; Application for Withdrawal, 22003

General Services Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Contract Administration, Quality Assurance, 22064–22065
Identification of Products with Environmental Attributes, 22065–22066
Requests for Comments:
New Federal Real Property Profile Information for Communications Facility Installation: Correction, 22066

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See National Institutes of Health
NOTICES
Meetings:
Advisory Committee on Minority Health, 22088

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Capital Needs Assessments—CNA e Tool, 22093–22094
Privacy Act; Systems of Records, 22094–22097

Institute of Museum and Library Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Five-Year State Plan Guidelines for State Library Administrative Agencies, 22104–22105

Interior Department
See Bureau of Safety and Environmental Enforcement
See Fish and Wildlife Service
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Natural and Cultural Resources Agencies Customer Relationship Management, 22097–22099

Internal Revenue Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 22124
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Summary and Transmittal of U.S. Information Returns, 22124–22125

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Clad Steel Plate from Japan, 22008–22009
Foundry Coke Products from the People's Republic of China, 22007–22008
Large Residential Washers from the Republic of Korea and Mexico, 22006–22007

International Trade Commission
NOTICES
Complaints:
Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same, 22102–22103
Certain Movable Barrier Operator Systems and Components Thereof, 22100–22101
Meetings; Sunshine Act, 22101–22102

Justice Department
NOTICES
Proposed Consent Decrees:
CERCLA, 22103–22104
Clean Water Act, 22103

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Proposed Blue Valley Land Exchange, Grand and Summit Counties, CO, 22099–22100

Legal Services Corporation
NOTICES
Meetings; Sunshine Act, 22104

National Foundation on the Arts and the Humanities
See Institute of Museum and Library Services

National Institute of Food and Agriculture
RULES
Matching Funds Requirements for Agricultural Research and Extension Capacity Funds at 1890 Land-Grant Institutions and 1862 Land-Grant Institutions in Insular Areas, 21846–21850

National Institutes of Health
NOTICES
Draft Report on Carcinogens Monograph on Helicobacter pylori:
Chronic Infection, 22088–22089
Meetings:
Center for Scientific Review, 22090–22091
National Cancer Institute, 22090
National Institute of General Medical Sciences, 22088, 22090
National Institute of Mental Health, 22089–22090
National Institute on Deafness and Other Communication Disorders, 22091–22092
National Institute on Minority Health and Health Disparities, 22091

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 21936–21939
Pacific Island Fisheries:
Closure of the 2018 Hawaii Shallow-set Longline Fishery; Court Order, 21939–21940
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National Oceanic and Atmospheric Administration's Papahanaumokuakea Marine National Monument and University of Hawaii Research Internship Program, 22034
Takes of Marine Mammals Incidental to Specified Activities:
Ketchikan Berth IV Expansion Project, 22009–22034

Nuclear Regulatory Commission
NOTICES
Meetings:
Advisory Committee on Reactor Safeguards Subcommittee on Digital I and C Systems, 22106
Advisory Committee on Reactor Safeguards Subcommittee on Nuscale, 22106
Advisory Committee on Reactor Safeguards Subcommittee on Power Uprates, 22105
Advisory Committee on Reactor Safeguards Subcommittee on Regulatory Policies and Practices, 22107
Advisory Committee on Reactor Safeguards Subcommittee on Thermal-Hydraulics Phenomena, 22106–22107

Presidential Documents
PROCLAMATIONS
Special Observances:
Be Best Day (Proc. 9745), 22171–22172
National Charter Schools Week (Proc. 9742), 22163–22166
National Hurricane Preparedness Week (Proc. 9743), 22167–22168
Public Service Recognition Week (Proc. 9744), 22169–22170
ADMINISTRATIVE ORDERS
Central African Republic; Continuation of National Emergency (Notice of May 10, 2018), 22173–22175

Securities and Exchange Commission
NOTICES
Self-Regulatory Organizations; Proposed Rule Changes:
Financial Industry Regulatory Authority, Inc., 22107–22110

Small Business Administration
NOTICES
Major Disaster Declarations:
Indiana, 22110–22111
Meetings:
National Small Business Development Centers Advisory Board, 22110

State Department
RULES
Passports, 21872–21876

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Permanent Regulatory Program—Small Operator Assistance Program, 22100

Surface Transportation Board
NOTICES
Lease and Operation Exemptions:
Hainesport Industrial Railroad, LLC; Hainesport Secondary Railroad, LLC, 22111–22112
Temporary Trackage Rights Exemptions:
Terminal Railway Alabama State Docks; Norfolk Southern Railway Co., 22111

Trade Representative, Office of United States
NOTICES
WTO Dispute Settlement Proceeding:
United States Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India, 22112–22113

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See Federal Railroad Administration

Treasury Department
See Community Development Financial Institutions Fund
See Internal Revenue Service

Veterans Affairs Department
RULES
Authority of Health Care Providers to Practice Telehealth, 21897–21907
Expanded Access to Non-VA Care through the Veterans Choice Program, 21893–21897
NOTICES
Publication of the Date on Which All Amounts Deposited in the Veterans Choice Fund Will Be Exhausted, 22125

Separate Parts In This Issue

Part II
Interior Department, Bureau of Safety and Environmental Enforcement, 22128–22162

Part III
Presidential Documents, 22163–22172

Part IV
Presidential Documents, 22173–22175

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9742 22165
9743 22167
9744 22169
9745 22171

Administrative Orders:

Notices:
Notice of May 10, 2018 22175

7 CFR

984 21841
1006 21843
3419 21846

Proposed Rules:

930 21941

14 CFR

23 21850
39 (4 documents) 21555, 21858, 21861, 21867
71 (2 documents) 21870, 21871

Proposed Rules:

39 (8 documents) 21946, 21948, 21951, 21953, 21955, 21962, 21964, 21966
71 (2 documents) 21968, 21970

22 CFR

50 21872
51 21872

23 CFR

Proposed Rules:

625 21972

30 CFR

Proposed Rules:

250 22128

33 CFR

165 (6 documents) 21876, 21883, 21885, 21886, 21888

38 CFR

17 (2 documents) 21893, 21897

40 CFR

52 (2 documents) 21907, 21909

Proposed Rules:

52 21977
81 21977

42 CFR

414 21912

45 CFR

147 21925
153 21925
154 21925
155 21925
156 21925
157 21925
158 21925

47 CFR

1 21927
8 21927
20 21927

Proposed Rules:

64 21983
73 21995

50 CFR

17 21928
635 21936
665 21939

Rules and Regulations

Federal Register
Vol. 83, No. 92
Friday, May 11, 2018

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–SC–16–0053; SC16–984–1 FR]

Walnuts Grown in California; Order Amending Marketing Order 984

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Marketing Order No. 984, which regulates the handling of walnuts grown in California. The amendment, which was proposed by the California Walnut Board (Board), was approved by growers in the referendum. This action authorizes the Board to borrow from a commercial lending institution to fund operations and marketing/research expenses for the program.

DATES: This rule is effective June 11, 2018.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Rulemaking Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Julie.Santoboni@ams.usda.gov*.

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, finalizes an amendment to a marketing order as defined in 7 CFR 900.2(j). This rule is issued under Marketing Order No. 984, as amended (7 CFR part 984), regulating the handling of walnuts grown in California. Part 984 hereinafter (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board, which is responsible for the local administration of the Order, is comprised of walnut growers and handlers operating within the production area. The applicable rules of practice and procedure governing the formulation of Marketing Agreements and Orders (7 CFR part 900) authorize amendment of the Order through this informal rulemaking action.

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule shall not be deemed to preclude, preempt, or supersede any State program covering walnuts grown in California.

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

Section 1504 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill) (Pub. L. 110–246) amended section 18c(17) of the Act, which in turn required the addition of supplemental rules of practice to 7 CFR part 900 (73 FR 49307). The amendment of section 18c(17) of the Act and additional supplemental rules of practice authorize the use of informal rulemaking (5 U.S.C. 553) to amend Federal fruit, vegetable, and nut marketing agreements and orders. USDA may use informal rulemaking to amend marketing orders based on the nature and complexity of the proposed amendments, the potential regulatory and economic impacts on affected entities, and any other relevant matters.

The Agricultural Marketing Service (AMS) considered the nature and complexity of the proposed amendment, the potential regulatory and economic impacts on affected entities, and other relevant matters, and determined that amending the Order as proposed by the Board could appropriately be accomplished through informal rulemaking.

The proposed amendment was unanimously recommended by the Board following deliberations at a public meeting held on February 19, 2016.

A proposed rule soliciting comments on the amendment was issued on September 12, 2016, and published in the **Federal Register** on September 16, 2016 (81 FR 63721). Two comments were received, both in support of the amendment. A proposed rule and referendum order was issued on May 19, 2017, and published in the **Federal Register** on May 26, 2017 (82 FR 24255). This document also directed that a referendum among walnut growers be conducted August 7, 2017 through August 18, 2017 to determine whether they favored the proposal. To become effective, the amendment had to be approved by either two-thirds of the growers voting in the referendum or by those representing at least two-thirds of the volume of walnuts produced by those voting in the referendum. The amendment was favored by 61 percent

of the growers voting and by 68 percent of the volume represented, the second of which exceeds the two-thirds volume requirement.

The amendment in this final rule authorizes the Board to borrow from a commercial lending institution during times of cash shortages to help ensure continuity of operations.

Final Regulatory Flexibility Analysis

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

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

There are approximately 5,700 growers of California walnuts in the production area and approximately 90 handlers subject to regulation under the Order. The Small Business Administration (SBA) defines small agricultural growers as those having annual receipts of less than $750,000 and defines small agricultural service firms as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to USDA's National Agricultural Statistics Service's (NASS's) 2012 Census of Agriculture, approximately 86 percent of California's walnut farms were smaller than 100 acres. Further, NASS reports that the average yield for 2014 was 1.97 tons per acre, and the average price received for 2014 was $3,230 per ton. A 100-acre farm with an average yield of 1.97 tons per acre would therefore have been expected to produce about 197 tons of walnuts during 2014–15 marketing year. At $3,230 per ton, that farm's production would have had an approximate value of $636,310. Since Census of Agriculture information indicates that the majority of California's walnut farms are smaller than 100 acres, it could be concluded that the majority of the growers had receipts of less than $636,310 in 2014–15, which is below the SBA threshold of $750,000. Thus, the majority of California's walnut growers would be considered small growers according to SBA's definition. According to information supplied by the Board, approximately two-thirds of California's walnut handlers shipped merchantable walnuts valued under $7,500,000 during the 2014–15 marketing year and would, therefore, be considered small handlers according to the SBA definition.

The Board's proposed amendment authorizing the Board to borrow from commercial lending institutions was unanimously recommended at a public meeting on February 19, 2016. This amendment will help to ensure continuity in operations.

The Board reviewed and identified the most costly portion of its domestic advertising program. That portion of the program operates during the first six months of the Board's marketing year and costs must be paid by mid-year. Since assessment revenues are collected throughout the marketing year, not enough is on hand when these large payments are due. In the past, the Board has used reserve funds to help pay for marketing and advertising expenses. However, due to the increased size of the advertising program, the Board cannot rely on reserve funds to cover the costs. Based on this fact, the Board believes the program could become unsustainable in the long term.

While this action could result in a temporary increase in handler assessment costs, these increases would be small and uniform on all handlers and proportional to the size of their businesses. These costs are expected to be offset by the benefits derived from a sustained marketing and advertising program. Additionally, these costs would help to ensure that the Board has sufficient funds to meet its financial obligations. Such stability is expected to allow the Board to conduct a program that would benefit all entities, regardless of size. California walnut growers should see an improved business environment and a more sustainable business model because of the improved business efficiency.

Alternatives were considered to this proposal, including making no change at this time. However, the Board believes it would be beneficial to have the means and funds necessary to effectively administer the program.

Paperwork Reduction Act

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

This amendment will not impose any additional reporting or recordkeeping requirements on either small or large California walnut handlers.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

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

The Board's meeting was widely publicized throughout the California walnut production area. All interested persons were invited to attend and participate in Board deliberations on all issues. The February 19, 2016, meeting was public, and all entities, both large and small, were encouraged to express their views on the proposal.

A proposed rule concerning this action was published in the **Federal Register** on September 16, 2016 (81 FR 63721). Copies of the proposed rule were mailed or sent via facsimile to all Board members and walnut growers. Finally, the rule was made available through the internet by USDA and the Office of the **Federal Register**. A 60-day comment period ending November 15, 2016, was provided to allow interested persons to respond to the proposal. Two comments were received, both in support of the amendment. No changes were made to the proposed amendments as a result of the comments received.

A proposed rule and referendum order was then issued on May 19, 2017, and published in the **Federal Register** on May 26, 2017 (82 FR 24255). This document directed that a referendum among walnut growers be conducted during the period of August 7, 2017 through August 18, 2017 to determine whether they favored the proposed amendment to the Order. To become effective, the amendment had to be approved by at least two-thirds of the growers voting, or two-thirds of the volume of walnuts represented by voters in the referendum. The amendment was favored by 61 percent of the growers voting and by 68 percent of the volume represented, the latter of which exceeds the two-thirds volume requirement.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*.

Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

Order Amending the Order Regulating the Handling of Walnuts Grown in California

(a) *Findings and Determinations Upon the Basis of the Rulemaking Record.*

The findings are supplementary to the findings and determinations which were previously made in connection with the issuance of the Order; and all said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

1. The Order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

2. The Order, as amended, and as hereby further amended, regulates the handling of walnuts grown in California in the same manner as, and is applicable only to, persons in the respective classes of commercial and industrial activity specified in the Order;

3. The Order, as amended, and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the Act;

4. The Order, as amended, and as hereby further amended, prescribes, insofar as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the differences in the production and marketing of walnuts produced or packed in the production area; and

5. All handling of walnuts produced in the production area as defined in the Order is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

(b) *Determinations.* It is hereby determined that:

1. Handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping of walnuts covered under the Order) who during the period September 1, 2015, through August 31, 2016, handled not less than 50 percent of the volume of such walnuts covered by said Order, as hereby amended, have not signed an amended marketing agreement; and

2. The issuance of this amendatory Order, amending the aforesaid Order, is favored or approved by producers representing at least two-thirds of the volume of walnuts produced by those voting in a referendum on the question of approval and who, during the period of September 1, 2015, through August 31, 2016, have been engaged within the production area in the production of such walnuts.

3. The issuance of this amendatory Order advances the interests of growers of walnuts in the production area pursuant to the declared policy of the Act.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, all handling of walnuts grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said Order as hereby amended as follows:

The provisions of the proposed Marketing Order amending the Order contained in the proposed rule issued by the Associate Administrator on September 12, 2016, and published in the **Federal Register** on September 16, 2016 (81 FR 63721), shall be and are the terms and provisions of this order amending the Order and are set forth in full herein.

List of Subjects in 7 CFR Part 984

Walnuts, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 984 is amended as follows:

PART 984—WALNUTS GROWN IN CALIFORNIA

■ 1. The authority citation for part 984 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Amend 984.69 by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

§ 984.69 Assessments.

* * * * *

(d) *Advanced assessments and commercial loans.* To provide funds for the administration of the provisions of this part during the part of a fiscal period when neither sufficient operating reserve funds nor sufficient revenue from assessments on the current season's certifications are available, the Board may accept payment of assessments in advance or may borrow money from a commercial lending institution for such purposes.

* * * * *

Dated: May 8, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–10106 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1006

[AMS–DA–17–0068; AO–18–0008]

Milk in the Florida Marketing Area; Order Amending the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the Florida Federal milk marketing order (FMMO) to adopt a temporary assessment on Class I milk. Assessment revenue will be disbursed to handlers and producers who incurred extraordinary marketing losses and expenses due to Hurricane Irma in September 2017. More than the required number of producers for the Florida marketing area have approved the issuance of the final order as amended.

DATES: This rule is effective July 1, 2018.

FOR FURTHER INFORMATION CONTACT: Erin C. Taylor, Order Formulation and Enforcement Division, USDA/AMS/Dairy Program, STOP 0231-Room 2963, 1400 Independence Ave SW, Washington, DC 20250–0231, (202) 720–7183, email address: *erin.taylor@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This rule, in accordance with 7 CFR 900.14(c), is the Secretary's final rule in this proceeding and issues a marketing order as defined in 7 CFR 900.2(j).

Accordingly, this final rule adopts proposed amendments detailed in the proposed rule (83 FR 13691).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

This final rule is not considered an Executive Order 13771 regulatory action because it does not meet the definition of a ''regulation'' or ''rule'' under Executive Order 12866.

The proposed amendments adopted in this final rule have been reviewed

under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect and will not preempt any state or local law, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674 and 7253), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the AMAA, any handler subject to a marketing order may request modification or exemption from such order by filing with the U.S. Department of Agriculture (USDA) a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, USDA would rule on the petition. The AMAA provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review USDA's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this action on small entities and has determined that this rule will not have a significant economic impact on a substantial number of small entities.

For the purpose of the RFA, a dairy farm is considered a small business if it has an annual gross revenue of less than $750,000. Dairy product manufacturers are considered small businesses based on the number of people they employ. Small fluid milk and ice cream manufacturers are defined as having 1,000 or fewer employees. Small butter and dry or condensed dairy product manufacturers are defined as having 750 or fewer employees. Small cheese manufacturers are defined as having 1,250 or fewer employees. Manufacturing plants that are part of larger companies operating multiple plants with total numbers of employees that exceed the threshold for small businesses will be considered large businesses, even if the local plant has fewer employees than the threshold number.

AMS estimates that 248 dairy farms produced milk pooled on the Florida FMMO in 2017. One hundred forty-one farms delivered milk to Florida pool plants fewer than 100 days during 2017, and of those, 66 had less than 48,000 pounds of pooled milk on the order during the entire year. AMS estimates 107 farms (248 minus 141) were part of the ''normal'' Florida milk supply last year. Nineteen of those farms had less than $750,000 in gross milk sales, based upon estimated 2017 production and a weighted average uniform price of $20.98 per cwt.

Considering all 248 farms that had producer milk on the Florida FMMO, AMS estimates that 101 farms had less than $750,000 in gross milk sales, regardless of where all of their production was pooled, and would be considered small businesses.

AMS data indicates that six dairy farmer cooperatives, in their capacity as handlers, pooled producer milk on the Florida FMMO in 2017. AMS estimates that two of those cooperative handlers have fewer than 500 employees and would be considered small businesses. Thirty-eight processing plants received producer milk in 2017, of which AMS estimates that 13 would be considered small businesses. Two of the 13 small businesses are fully regulated distributing plants on the Florida FMMO. The remaining 11 small businesses are nonpool or exempt plants.

The proposed amendments adopted in this final rule will provide temporary reimbursement to handlers (cooperative associations and proprietary handlers) who incurred extraordinary losses in connection with Hurricane Irma in September 2017. The amendments were requested by Southeast Milk, Inc.; Dairy Farmers of America, Inc.; Premier Milk, Inc.; Maryland and Virginia Milk Producers Cooperative Association, Inc.; and Lone Star Milk Producers, Inc. The dairy farmer members of these five cooperatives supply the majority of the milk pooled under the Florida FMMO. For a 7-month period beginning with July 2018, the amendments will implement a temporary assessment on Class I milk pooled on the Florida FMMO at a rate not to exceed $0.09 per hundredweight (cwt). The amount generated through the temporary assessment will be disbursed during the 7-month period starting in July 2018 to qualifying handlers who incurred extraordinary losses and expenses as a result of the hurricane.

The amendments will reimburse handlers for marketing expenses and losses in four categories: Transportation costs to deliver loads to other than their normal receiving plants; lost location value due to selling milk in lower location value zones; milk dumped at farms or on tankers, and skim milk dumped at plants; and distressed milk sales. Reimbursement will be funded through an assessment on Class I milk at a maximum rate of $0.09 per cwt. Record evidence indicates that this would increase the consumer price of milk by less than $0.01 per gallon during the 7-month assessment period.

The temporary assessment will not place handlers in the Florida marketing area at a competitive disadvantage because of the assessment's uniform application to Class I milk. Additionally, any handler who experienced a qualifying marketing expense or loss will be eligible to receive reimbursement, regardless of size. Dairy farmer blend prices will not be impacted by the amendments because the assessment will not be funded through the marketwide pool. Dairy farmer cooperatives who pooled milk on the Florida order, and therefore who qualified as the pooling handler, will also be eligible for reimbursement. In those instances, producers are receiving relief as the money is returned to their dairy farmer-owned cooperative. Accordingly, the adoption of the proposed amendments will not significantly impact producers or handlers of any size, due to the limited implementation period and the minimal impact to the Class I milk price.

A review of reporting requirements was completed in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The information necessary to qualify for reimbursement, as outlined in this rule, has already been submitted through the monthly handler receipts and utilization form (FORM 1), or is part of the normal business records inspected during routine FMMO audits.

The primary information sources that will be required for applications for reimbursement are documents currently generated in customary business transactions. These documents include, but are not limited to: Invoices; receiving records; bulk milk manifests; hauling bills; and contracts. As these documents are routinely inspected by the market administrator during handler audits, the amendments adopted in this rule would not result in any new information collection.

Prior Documents in This Proceeding

Notification of Hearing: Issued December 6, 2017; published December 11, 2017 (82 FR 58135);

Supplemental Notice of Hearing: Issued December 7, 2017; published December 11, 2017 (82 FR 58135);

Final Decision: Issued March 23, 2018; published March 30, 2018 (83 FR 13691).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(1) *Findings upon the basis of the hearing record.*

The amendments to the order are based on the record of a public hearing held in Tampa, Florida, December 12 through 14, 2017, pursuant to a notification of hearing issued December 6, 2017, and published December 11, 2017 (82 FR 58135). The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900). The tentative marketing agreement and the order are authorized under 7 U.S.C. 608c.

Upon the basis of the evidence introduced at the public hearing and its record, it is found that:

(a) The order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the AMAA;

(b) The parity prices of milk, as determined pursuant to section 2 of the AMAA, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions that affect market supply and demand for milk in the Florida marketing area. The minimum prices specified in the tentative marketing agreement and order, as hereby amended, are prices that will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and order, as hereby amended, will regulate the handling of milk in the same manner as, and applies only to, persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

(2) *Additional Findings.*

The amendment to this order is known to handlers. The final decision containing the proposed amendment to this order was issued on March 23, 2018, and published in the **Federal Register** on March 30, 2018 (83 FR 13691).

The public hearing regarding amendments to this order was held on an emergency basis. The changes that result from these amendments will not require extensive preparation or substantial alteration in the handlers' method of operation. Therefore, it is determined that good cause exists for making this amendment effective July 1, 2018. (Section 553(d), Administrative Procedure Act, 5 U.S.C. 551–559.)

(3) *Determinations.*

It is hereby determined that:

(a) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the AMAA) of more than 50 percent of the milk marketed within the specified marketing areas to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the AMAA;

(b) The issuance of this order amending the Florida order is the only practical means pursuant to the declared policy of the AMAA of advancing the interests of producers as defined in the order as hereby amended; and

(c) The issuance of this order amending the Florida order is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the respective marketing areas.

List of Subjects in 7 CFR Part 1006

Milk marketing orders.

Order Amending the Order Regulating the Handling of Milk in the Florida Marketing Area

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Florida marketing area shall be in conformity to and in compliance with the terms and conditions of the order as amended, as follows:

For the reasons set forth in the preamble, 7 CFR part 1006 is amended as follows:

PART 1006—MILK IN THE FLORIDA MILK MARKETING AREA

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

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

[Subpart Redesignated as Subpart A]

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

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

§ 1006.60 Handler's value of milk.

* * * * *

(a) Multiply the pounds of skim milk and butterfat in producer milk that were classified in each class pursuant to § 1000.44(c) of this chapter by the applicable skim milk and butterfat prices, and add the resulting amounts; except that for the months of July 2018 through January 2019, the Class I skim milk price for this purpose shall be the Class I skim milk price as determined in § 1000.50(b) of this chapter plus $0.09 per hundredweight, and the Class I butterfat price for this purpose shall be the Class I butterfat price as determined in § 1000.50(c) of this chapter plus $0.0009 per pound. The adjustments to the Class I skim milk and butterfat prices provided herein may be reduced by the market administrator for any month if the market administrator determines that the payments yet unpaid computed pursuant to paragraphs (g)(1) through (g)(6) of this section will be less than the amount computed pursuant to paragraph (h) of this section. The adjustments to the Class I skim milk and butterfat prices provided herein during the months of July 2018 through January 2019 shall be announced along with the prices announced in § 1000.53(b) of this chapter.

* * * * *

(g) For transactions occurring during the period of September 6, 2017, through September 15, 2017, for handlers who have submitted proof satisfactory to the market administrator no later than August 1, 2018, to determine eligibility for reimbursement of hurricane-imposed costs, subtract an amount equal to:

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

(2) The lost location value on loads of milk rerouted to plants outside the state of Florida as a result of Hurricane Irma. The lost location value shall be the difference per hundredweight between the value specified in § 1000.52 of this

chapter, adjusted by § 1006.51(b), at the location of the plant where the milk would have normally been received and the value specified in § 1000.52, as adjusted by § 1005.51(b) and § 1007.51(b) of this chapter, at the location of the plant to which the milk was rerouted;

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

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

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

(6) The difference between the announced class price applicable to the milk as classified by the market administrator for the month of September 2017 and the actual price received for milk delivered to nonpool plants outside the state of Florida as a result of Hurricane Irma.

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

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

Dated: May 8, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–10085 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3419

RIN 0524–AA68

Matching Funds Requirements for Agricultural Research and Extension Capacity Funds at 1890 Land-Grant Institutions, Including Central State University, Tuskegee University, and West Virginia State University, and at 1862 Land-Grant Institutions in Insular Areas

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends National Institute of Food and Agriculture (NIFA) regulations for the purpose of implementing the statutory amendments applicable to the National Institute of Food and Agriculture's (NIFA) matching requirements for Federal agricultural research and extension capacity (formula) funds for 1890 land-grant institutions (LGUs), including Central State University, Tuskegee University, and West Virginia State University, and 1862 land-grant institutions in insular areas, and to remove the term ''qualifying educational activities.'' These matching requirements were amended by the Farm Security and Rural Investment Act; the Food, Conservation, and Energy Act of 2008; and the Agricultural Act of 2014.

DATES: This final rule is effective May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Maggie Ewell, Senior Policy Advisor, 202–401–0222.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The National Institute of Food and Agriculture (NIFA) amends part 3419 of Title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations which implements the matching requirements provided under section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) for agricultural research and extension capacity (formula) funds authorized for the 1890 land-grant institutions, including Central State University, Tuskegee University, and West Virginia State University and 1862 land-grant institutions in insular areas. This revision is required due to the statutory amendments of sections 7212 of the Farm Security and Rural Investment Act of 2002 (FSRIA); section 7127 of the Food, Conservation, and Energy Act of 2008; and section 7129 of the Agricultural Act of 2014. Additionally, NIFA makes these changes to the Definitions and Use of Matching Funds sections to provide clarity on allowable uses of matching funds.

Response to Comments on the Proposed Rule and Revisions Included in Final Rule

On November 13, 2017, NIFA published in the **Federal Register** a Notice of Proposed Rulemaking entitled ''Matching Funds Requirements for Agricultural Research and Extension Capacity Funds at 1890 Land-Grant Institutions and 1862 Land-Grant Institutions in Insular Areas'' (82 FR 52250) with the same purpose as above. The public had 60 days to comment, with the comment period closing January 12, 2018. NIFA received only one comment in response to the Notice of Proposed Rulemaking and this comment addressed issues that are outside the scope of this rule. The commenter discussed the inhumane treatment of farm animals in general. Because this comment is outside the scope of this rule, no change will be made to the language of the revision based on this comment.

Summary of Changes in Final Rule

Section 3419.1 Definitions

The definition of an eligible institution is updated to include West Virginia State University (formerly West Virginia State College) and Central State University. Section 753 of the Agricultural, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Pub. L. 107–76) restored 1890 land-grant institution status to West Virginia State College. In 2004, the West Virginia Legislature approved West Virginia State College's transition to University status. Central State University was recognized as an 1890 land-grant institution under section 7129 of the Agricultural Act of 2014.

In 2014, NIFA re-branded its formula grant programs as ''capacity grants.'' Therefore, the definition of formula funds is changed to reflect this terminology, capacity funds, and the words ''by formula'' are inserted to clarify that capacity funds are provided by formula to eligible institutions.

The term and definition for qualifying educational activities is removed due to the fact that this term has caused confusion regarding what constitutes an allowable qualifying educational

activity. NIFA follows the authorized uses of funds in NARETPA, codified at 7 U.S.C. 3221 and 3222, for extension and research programs. Research funds are for conducting agricultural research, printing, disseminating the results of research, administration, planning and direction, purchase and rental of land, and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. Extension funds are for the expenses of conducting extension programs and activities. 7 U.S.C. 3221(e) expressly prohibits extension funds from being spent on college course teaching or lectures in college.

NARETPA also contains definitions that explain the difference between education in conjunction with extension programs and education and teaching. Extension education is defined as ''informal'' while teaching and education is defined as ''formal classroom instruction,'' which is expressly prohibited under 7 U.S.C. 3221(e).

Because the authorized uses related to education expenses are clearly outlined in NARETPA and in 7 U.S.C. 3221 and 3222, NIFA does not see the value in including the term ''qualifying educational activity'' as a term in regulation and, further, wants to ensure there is no conflict between its regulatory authorizations and the law. Therefore, NIFA removes the term ''qualifying educational activity'' and will allow only informal educational activities, as authorized by statute.

Section 3419.2 Matching Funds Requirements

Revisions to this section are required due to statutory amendments of sections 7212 of FSRIA; section 7127 of the Food, Conservation, and Energy Act of 2008; and section 7129 of the Agricultural Act of 2014. The information regarding Fiscal Years 2000, 2001, and 2002 are removed as they are outdated and no longer applicable. NIFA replaces this text with the matching requirements for 1862 land-grant institutions in insular areas for the Smith-Lever 3(b) and (c) program (7 U.S.C. 343(e)(4)(A)) and the Hatch Act program (7 U.S.C. 361c(d)(4)(A)), which state that insular areas will provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by NIFA to each of the 1862 land-grant institutions in insular areas, respectively. NIFA replaces existing text with the matching requirement to the Evans Allen/Section 1445 fund program (7 U.S.C. 3222d) and Extension/Section 1444 fund programs (7 U.S.C. 3221) which state that the State will provide equal matching funds from non-Federal sources.

Section 3419.3 Limited Waiver Authority

The section entitled, ''Determination of non-Federal sources of funds,'' § 3419.3, is removed, because it reiterated a statutory requirement to submit, in the year 1999, a report on non-Federal funds used as match to be submitted. There is no further statutory requirement or authority to submit reports on the sources of non-Federal funds. Section 3419.4 Limited Waiver Authority is re-designated as § 3419.3 and modified to include the provisions of 7 U.S.C 3222d(d): authorization of a 50% waiver of matching funds authority for 1890 land-grant institutions. Additionally, § 3419.3 includes the authority to waive up to 100% of the required match for 1862 land-grant institutions in insular areas that is present in 7 U.S.C. 343(e)(4)(B).

NIFA also adds to this section a description of the criteria a land-grant institution must demonstrate in order to be eligible for a waiver. The three criteria are: Impacts from natural disaster, flood, fire, tornado, hurricane, or drought; State and/or Institution facing a financial crisis; or lack of matching funds after demonstrating a good faith effort to obtain funds.

Section 3419.4 Application for Waivers for Both 1890 Land-Grant Institutions and 1862 Land-Grant Institutions in Insular Areas

NIFA adds § 3419.4 to outline how 1890 land-grant institutions and 1862 land-grant institutions in insular areas may request a matching waiver. To request a waiver, the president of the institution must submit in writing a request for a waiver of the matching requirements. The request must include the name of the eligible institution, the type of capacity funds, which would include Section 1444 Extension, Section 1445 Research; Smith-Lever; or Hatch Act; the fiscal year of the match; and the basis of the request, *i.e.,* one or more of the criteria identified in 3419.3. Requests for waivers may be submitted with the application for funds or at any time during the period of performance of the award. Additionally, NIFA includes a requirement for current supporting documentation, where current is defined as within the past two years from the date of the letter requesting the waiver. It is critical that NIFA base its decisions for matching waivers on the current state of affairs within the State and institution. Using older data does not provide adequate rationale for NIFA to waive the statutorily required match for capacity programs.

Section 3419.5 Certification of Matching Funds

The only change in this section is changing the word ''formula'' to ''capacity,'' consistent with the current terminology used by NIFA.

Section 3419.6 Use of Matching Funds

NIFA includes minor technical changes to this section: Use of the term ''capacity'' in place of ''formula'' and ''must'' in place of ''shall.'' These technical changes have no impact on the requirements from the existing to the proposed regulation. Additionally, NIFA adds clarifying language that matching funds must be used for the same purpose as Federal dollars as well as a specific prohibition on the use of tuition dollars and student fees as match.

The intent of the rule is to clarify two requirements. First, the amended rule clarifies that matching funds must be used by an eligible institution for the same purpose as Federal award dollars: Agricultural research and extension activities that have been approved in the plan of work. Second, the amended rule removes the end phrase: ''or for approved qualifying educational activities.'' As discussed in § 3419.1 Definitions, the use of the phrase ''qualifying educational activities'' has caused confusion regarding what constitutes an allowable qualifying educational activity. NIFA supports the position, as required under 2 CFR 200.306, that all matching funds must be necessary and reasonable for accomplishment of project or program objectives. In other words, to be allowable as a match, the costs must be allowable under the Federal award. This principle applies to matching funds 1890 land-grant institutions receive for Research and Extension programs, as well as the funds received by 1862 land-grant institutions in insular areas for Smith-Lever and Hatch programs.

NIFA follows the authorized uses of funds in the authorizing statutes for determining what is allowable under the Federal award. For 1862 land-grant institutions in insular areas, this is the authorized uses under 7 U.S.C. 343 for Smith-Lever programs and 7 U.S.C. 361a for Hatch Act programs.

For 1890 Extension and Research programs, NIFA follows the authorizations included in NARETPA, codified at 7 U.S.C. 3221 and 3222. Research funds are for conducting agricultural research; printing; disseminating the results of research,

administration, planning and direction; purchase and rental of land; and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research. Extension funds are for the expenses of conduction extension programs and activities. 7 U.S.C. 3221(e) expressly prohibits extension funds from being spent on college course teaching or lectures in college.

NARETPA also contains definitions that explain the difference between education in conjunction with extension programs versus education and teaching. Extension education is defined as ''informal'' while teaching and education is defined as ''formal classroom instruction,'' which is expressly prohibited under 7 U.S.C. 3221(e).

Because the authorized uses related to education expenses are clearly outlined in NARETPA and 7 U.S.C. 3221 and 3222, NIFA does not see value in including the term ''qualifying educational activity'' as a term in regulation and further, wants to ensure there is no conflict between its regulatory authorizations and the law. Therefore, NIFA removes the term ''qualifying educational activity;'' however, the removal is intended to prohibit expenditures related to formal education activities. NIFA will allow only informal education activities, as authorized by statute.

Under 7 U.S.C. 3221(a)(3), funds appropriated for extension must be used for the expenses of conducting extension programs and activities, and for contributing to the retirement of employees subject to the provisions of 7 U.S.C. 331. 7 U.S.C. 3222(e) expressly prohibits extension funds from being spent on college course teaching and lectures in college. Section 1404(7) of NARETPA defines the term extension to mean informal education programs conducted in the States in cooperation with the Department of Education. Therefore, NIFA has determined that the current authorizations allow for informal education programs to be conducted with extension funding, but not for formal classroom instruction.

7 U.S.C. 3222(a)(3) states that: ''research funding must be used for the expenses of conducting agricultural research, printing, disseminating the results of such research, contributing to the retirement of employees subject to the provisions of 7 U.S.C. 331 of this title, administrative planning and direction, and purchase and rental of land and the construction, acquisition, alteration, or repair of buildings necessary for conducting agricultural research.''

Because the authorizing statutes so clearly identify authorized uses and prohibitions, NIFA believes that no further explanation or inclusion of qualifying educational activities is needed in this regulation.

Finally, Section 1473 of NARETPA, 7 U.S.C. 3319, prohibits grantee institutions from using capacity funds for tuition remission. Therefore, NIFA revises this section to clarify that this prohibition also applies to student fees, as they are related to tuition. Further 7 U.S.C. 3221 and 3222 do not include tuition or student fees as authorized uses of funds. As provided in 7 U.S.C. 3221(e) and 3222(d), no portion of the funds provided to an 1890 institution for extension and research shall be applied, directly or indirectly, to any purpose other than those specified in the authorizing statutes. Therefore, NIFA clarifies that tuition dollars and student fees are not to be used as matching funds.

Section 3419.7 Reporting of Matching Funds

This revision adds a section on reporting of matching funds to clarify an existing requirement that 1890 land-grant institutions and 1862 land-grant institutions in insular areas report all capacity funds expended on an annual basis using Standard Form (SF) 425, in accordance with 7 CFR part 3430. This ensures that the information on matching funds is reported to NIFA.

Section 3419.8 Redistribution of Funds

This revision removes the first sentence of the existing provision as the timing of reapportionment may vary. Removing this sentence does not change the statutory requirements for reapportionment. The only significance of the deletion is to remove the July 1 date for action.

Additionally, one other technical correction changes ''shall'' to ''must,'' consistent with the plain English provisions relating to rulemaking.

Executive Order 12866 and Executive Order 13563

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

Executive Order 13771

This final rule is not expected to be an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

Regulatory Flexibility Act

This final rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, (5 U.S.C. 601–612). The Director of the NIFA certifies that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect institutions of higher education receiving Federal funds under this program. The U.S. Small Business Administration Size Standards define institutions as ''small entities'' if they are for-profit or nonprofit institutions with total annual revenue below $5,000,000 or if they are institutions controlled by governmental entities with populations below 50,000. The rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

Catalogue of Federal Domestic Assistance

The programs affected by this final rule are listed in the Catalogue of Federal Domestic Assistance under 10.500, Cooperative Extension Service; 10.511, Smith-Lever Funding; 10.512, Agriculture Extension at 1890 Land-grant Institutions, and 10.205, Payments to 1890 Land-Grant Colleges and Tuskegee University Evans-Allen Research and/or Agricultural Research at 1890 Land-grant institutions, including Tuskegee University, West Virginia State University, and Central State University; and 10.203, Payments to Agricultural Experiment Stations Under the Hatch Act (The Hatch Act of 1887).

Paperwork Reduction Act

The Department certifies that this final rule has been assessed in accordance with the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* The Department concludes that this rule does not impose any new information collection requirements or change the burden estimate on existing information collection requirements. In addition to the SF–424 form families (*i.e.,* Research

and Related and Mandatory) and the SF–425 Federal Financial Report (FFR) No. 0348–0061, NIFA has three currently approved OMB information collections associated with this rulemaking: OMB Information Collection No. 0524–0042, NIFA REEport; No. 0524–0041, NIFA Application Review Process; and No. 0524–0026, Organizational Information.

Unfunded Mandates Reform Act of 1995 and Executive Order 13132

The Department has reviewed this final rule in accordance with the requirements of Executive Order No. 13132 and the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 *et seq.,* and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein that could result in increased expenditures by State, local, or tribal governments, or by the private sector, the Department has not prepared a budgetary impact statement.

Clarity of This Regulation

Executive Order 12866 and the President's Memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this rule easier to understand.

List of Subjects in 7 CFR Part 3419

1890 land-grant institutions, Agricultural extension, Agricultural research, Grant programs-agriculture, Insular areas, Land-grant institutions, Matching funds.

For the reasons discussed in the preamble, the Department of Agriculture, National Institute of Food and Agriculture, amends 7 CFR part 3419 as follows:

PART 3419—MATCHING FUNDS REQUIREMENT FOR AGRICULTURAL RESEARCH AND EXTENSION CAPACITY FUNDS AT 1890 LAND-GRANT INSTITUTIONS, INCLUDING CENTRAL STATE UNIVERSITY, TUSKEGEE UNIVERSITY, AND WEST VIRGINIA STATE UNIVERSITY AND AT 1862 LAND-GRANT INSTITUTIONS IN INSULAR AREAS

■ 1. The authority citation for part 3419 is revised to read as follows:

Authority: 7 U.S.C. 3222d; 7 U.S.C. 343(e); 7 U.S.C. 361c; Pub. L. 107–171; Pub. L. 110–234; Pub. L. 113–79.

■ 2. Revise the heading of part 3419 to read as set forth above.

■ 3. Amend § 3419.1 as follows:

■ a. Add a definition for ''Capacity funds'' in alphabetical order;

■ b. Revise the definition of ''Eligible institution'';

■ c. Remove the definition of ''Formula funds'';

■ d. Revise the definition of ''Matching funds''; and

■ e. Remove the definition of ''Qualifying educational activities''.

The addition and revision read as follows:

§ 3419.1 Definitions.

* * * * *

Capacity funds means agricultural extension and research funds provided by formula to the eligible institutions under sections 1444 and 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended, or under sections 3(b) and (c) of the Smith-Lever Act, 7 U.S.C. 343(b) and (c) or under section 3 of the Hatch Act of 1887, 7 U.S.C. 361c.

Eligible institution means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*) (commonly known as the Second Morrill Act), including Central State University, Tuskegee University, and West Virginia State University (1890 land-grant institutions), and a college or university designated under the Act of July 2, 1862 (7 U.S.C. 301, *et seq.*) (commonly known as the First Morrill Act) and located in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the U.S. Virgin Islands (1862 land-grant institutions in insular areas).

Matching funds means funds from non-Federal sources, including those made available by the State to the eligible institutions, for programs or activities that fall within the purposes of agricultural research and cooperative extension under: sections 1444 and 1445 of NARETPA; the Hatch Act of 1887; and the Smith-Lever Act.

* * * * *

■ 4. Amend § 3419.2 as follows:

■ a. Revise the section heading;

■ b. Remove the introductory text; and

■ c. Revise paragraphs (a) and (b).

The revisions read as follows:

§ 3419.2 Matching funds requirement.

(a) *1890 land-grant institutions.* The distribution of capacity funds are subject to a matching requirement. Matching funds will equal not less than 100% of the capacity funds to be distributed to the institution.

(b) *1862 land-grant institutions in insular* areas. The distribution of capacity funds are subject to a matching requirement. Matching funds will equal not less than 50% of the capacity funds to be distributed to the institution.

* * * * *

§ 3419.3 [Removed]

■ 5. Remove § 3419.3.

■ 6. Redesignate § 3419.4 as § 3419.3 and revise newly designated § 3419.3 to read as follows:

§ 3419.3 Limited waiver authority.

(a) *1890 land-grant institutions:* The Secretary may waive the matching funds requirement in § 3419.2 above the 50% level for any fiscal year for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement.

(b) *1862 land-grant institutions in insular areas:* The Secretary may waive up to 100% of the matching funds requirements in § 3419.2 for any fiscal year for an eligible institution in an insular area.

(c) The criteria to waive the applicable matching requirement for 1890 land-grant institutions and 1862 land-grant institutions in insular areas is demonstration of one or more of the following:

(1) Impacts from natural disaster, flood, fire, tornado, hurricane, or drought;

(2) State and/or institution facing a financial crisis; or

(3) Lack of matching funds after demonstration of good faith efforts to obtain funds.

(d) Approval or disapproval of the request for a waiver will be based on the application submitted, as defined under § 3419.4.

■ 7. Add a new § 3419.4 to read as follows:

§ 3419.4 Applications for waivers for both 1890 land-grant institutions and 1862 land-grant institutions in insular areas.

Application for waivers for both 1890 land-grant institutions and 1862 land-grant institutions in insular areas. The president of the eligible institution must submit any request for a waiver for matching requirements. A waiver application must include the name of the eligible institution, the type of Federal capacity funds (*i.e.* research, extension, Hatch, etc.), appropriate fiscal year, the basis for the request (*e.g.* one or more of the criteria identified in § 3419.3); current supporting documentation, where current is

defined as within the past two years from the date of the letter requesting the waiver; and the amount of the request.

§ 3419.5 [Amended]

■ 8. Amend § 3419.5 by removing the word ''formula'' and adding, in its place, the word ''capacity''.

■ 9. Revise § 3419.6 to read as follows:

§ 3419.6 Use of matching funds.

The required matching funds for the capacity programs must be used by an eligible institution for the same purpose as Federal award dollars: Agricultural research and extension activities that have been approved in the plan of work required under sections 1445(c) and 1444(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 7 of the Hatch Act of 1887, and section 4 of the Smith-Lever Act. For all programs, tuition dollars and student fees may not be used as matching funds.

■ 10. Redesignate § 3419.7 as § 3419.8 and revise newly redesignated § 3419.8 to read as follows:

§ 3419.8 Redistribution of funds.

Unmatched research and extension funds will be reapportioned in accordance with the research and extension statutory distribution formulas applicable to the 1890 and 1862 land-grant institutions in insular areas, respectively. Any redistribution of funds must be subject to the same matching requirement under § 3419.2.

■ 11. Add a new § 3419.7 to read as follows:

§ 3419.7 Reporting of matching funds.

Institutions will report all capacity matching funds expended annually using Standard Form (SF) 425, in accordance with 7 CFR 3430.56(a).

Done at Washington, DC, this 7th day of May 2018.

Meryl Broussard,

Associate Director for Programs, National Institute of Food and Agriculture.

[FR Doc. 2018–10015 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Notice No. 23–18–01–NOA]

Accepted Means of Compliance; Airworthiness Standards: Normal Category Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notification of availability; request for comments.

SUMMARY: This document announces the availability of 63 Means of Compliance (MOC) based on 30 published ASTM International (ASTM) consensus standards developed by ASTM Committee F44 on General Aviation Aircraft. A total of 46 of these accepted MOCs consist of ASTM consensus standards as published, with the remaining 17 MOCs comprised of a combination of ASTM standards and FAA changes. The Administrator finds these MOCs to be an acceptable means, but not the only means, of showing compliance to the applicable regulations in part 23, amendment 23–64, for normal category airplanes. The Administrator further finds that these accepted means of complying with part 23, amendment 23–64, provide at least the same level of safety as the corresponding requirements in part 23, amendment 23–63.

DATES: Comments must be received on or before July 10, 2018.

ADDRESSES: Mail comments to: Federal Aviation Administration, Policy and Innovation Division, Small Airplane Standards Branch, AIR–690, Attention: Steve Thompson, 901 Locust Street, Room 301, Kansas City, Missouri 64106. Comments may also be emailed to: *steven.thompson@faa.gov.* Specify the MOC, and if applicable, the standard being addressed by designation and title. Mark all comments: Part 23 MOC Comments.

FOR FURTHER INFORMATION CONTACT: Steve Thompson, Federal Aviation Administration, Policy and Innovation Division, Small Airplane Standards Branch, AIR–690, 901 Locust Street, Room 301, Kansas City, Missouri 64106; telephone (816) 329–4126; facsimile: (816) 329–4090; email: *steven.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit written comments, data, or views. Communications should identify the MOC and consensus standard number, where applicable, and be submitted to the address previously specified in the **ADDRESSES** section of this NOA. The most helpful comments reference a specific portion of the accepted MOC(s) or standard(s), explain the reason for any recommended change, and include supporting data. The FAA may forward communications regarding the consensus standards to ASTM Committee F44 for consideration. The MOC or standard may be revised based on received comments. The FAA will consider all comments received during the recurring review of the MOC and consensus standard and will participate in the consensus standard revision process.

Background

Under the provisions of the *National Technology Transfer and Advancement Act of 1995* [1] and Office of Management and Budget (OMB) Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities,'' effective January 27, 2016, the FAA participates in the development of consensus standards and uses consensus standards as a means of carrying out its policy objectives where appropriate.

Consistent with the *Small Airplane Revitalization Act of 2013*,[2] the FAA has been working with industry and other stakeholders through ASTM to develop consensus standards for use as a MOC in certificating small airplanes under part 23. In promulgating part 23, amendment 23–64, the FAA explained that if it determined such consensus standards were acceptable MOC to part 23, it would publish a notice of availability of those consensus standards in the **Federal Register**.

Pursuant to FAA Advisory Circular 23.2010–1, section 3.1.1, this document serves as a formal acceptance by the Administrator, of MOCs based on consensus standards developed by ASTM. The MOCs accepted by this document are one means, but not the only means of complying with part 23 regulatory requirements.

The FAA has reviewed the consensus standards referenced in this NOA as the basis for MOCs to the regulatory requirements of part 23, amendment 23–64. In some cases, the Administrator finds sections of ASTM Standard F3264–17, ''Standard Specification for Normal Category Aeroplanes Certification,'' without changes, are accepted as means of complying with the airworthiness requirements of part 23, without degrading safety, and within the scope and applicability of the consensus standards. In other cases, the MOCs, while based on ASTM consensus standards, include additional FAA provisions necessary to comply with the airworthiness requirements of part 23, amendment 23–64.

Part 23, amendment 23–64, established airworthiness requirements based on the level of safety of

[1] *Ref* Public Law 104–113 as amended by Public Law 107–107.

[2] *Ref* Public Law 113–53.

amendment 23–63 regulations, except for areas addressing loss of control and icing where the safety level was increased.[3] Achieving this level of safety through compliance with amendment 23–64—for a given certification project—may require use of additional MOCs beyond those accepted by this document, depending on the details of the specific design. For example, an applicant's design may include features that are customary, but not addressed in the MOCs accepted by this document. Designs may also include features that are innovative and not type certificated previously. In either case, a supplemental MOC beyond those accepted in this document would be required. For example, the MOCs accepted by this document do not contain provisions addressing powered-trim system runaways. Therefore, in order to maintain the level of safety of amendment 23–63 regulations, applicants proposing use of these MOCs for an airplane with a powered-trim system would need to supplement the accepted MOC(s) with additional means for § 23.2300 to demonstrate safe controllability after a probable trim system runaway. To do this, applicants could use the provisions of § 23.677(d), amendment 23–49, or other MOC(s) accepted under § 23.2010. Further information on supplemental MOCs is provided in a part 23 means of compliance summary table and in the Small Airplanes Issues List, which are available on the *Small Airplanes—Regulations, Policies & Guidance* website.[4]

Means of Compliance Accepted in This Document

The following is a list of sections from part 23, amendment 23–64, followed by their corresponding MOC accepted by this document:

23.1457: ASTM F3264–17, section 9.12
23.1459: ASTM F3264–17, section 9.13
23.1529: ASTM F3264–17, section 10.6

Subpart B—Flight

23.2100: ASTM F3264–17, section 5.1
23.2105: ASTM F3264–17, section 5.2
23.2110: ASTM F3264–17, section 5.3
23.2115: ASTM F3264–17, section 5.4
23.2120: ASTM F3264–17, section 5.5
23.2125: ASTM F3264–17, section 5.6
23.2130: ASTM F3264–17, section 5.7
23.2135: ASTM F3264–17, section 5.8, combined with the changes in the following table:

Replace:	With:
ASTM F3173/F3173M–17, Sections 4.9.1.1 and 4.9.1.2.	FAA 4.9.1.1 and 4.9.1.2: 4.9.1.1: "For a level 1 or 2 airplane, or level 3 or 4 airplane of 6,000 pounds or less maximum weight, 5 seconds from initiation of roll and" 4.9.1.2: "For a level 3 or 4 airplane of over 6,000 pounds maximum weight, (W+500)/1300 seconds, but not more than 10 seconds, where W is the weight in pounds."
ASTM F3173/F3173M–17, Sections 4.9.3.1 and 4.9.3.2.	FAA 4.9.3.1 and 4.9.3.2: 4.9.3.1: "For a level 1 or 2 airplane, or level 3 or 4 airplane of 6,000 pounds or less maximum weight, 4 seconds from initiation of roll and" 4.9.3.2: "For a level 3 or 4 airplane of over 6,000 pounds maximum weight, (W+2,800)/2,200 seconds, but not more than 7 seconds, where W is the weight in pounds."

23.2140: ASTM F3264–17, section 5.9
23.2145: ASTM F3264–17, section 5.10
23.2150: ASTM F3264–17, section 5.11
23.2155: ASTM F3264–17, section 5.12
23.2160: ASTM F3264–17, section 5.13
23.2165: ASTM F3264–17, section 5.14

Subpart C—Structures

23.2200: ASTM F3264–17, Section 6.1, combined with the changes in the following table:

Replace:	With:
ASTM F3116/F3116M–15, Section 5.1.3.1(1).	FAA 5.1.3.1(1): "V_S is a 1g computed stalling speed with flaps retracted (normally based on the maximum airplane normal force coefficient, C_{NA}) at the design maximum takeoff weight."

23.2210: ASTM F3264–17, section 6.3
23.2215: ASTM F3264–17, section 6.4, combined with the changes in the following table:

Replace:	With:
ASTM F3116/F3116M–15, Section 4.1.4	FAA 4.1.4: "Appendix X1 through appendix X4 provide, within the limitations specified within the appendix, a simplified means of compliance with several of the requirements set forth in 4.2 to 4.26 and 7.1 to 7.9 that can be applied as one (but not the only) means to comply. If the simplified methods in appendix X1 through appendix X3 are used, they must be used together in their entirety."
ASTM F3116/F3116M–15, Section 4.10.1.1.	FAA 4.10.1.1: "In condition A, assume 100% of the semispan wing airload acts on one side of the airplane and 75% of this load acts on the other side. For airplanes with maximum weight of 1,000 pounds or less, 70% of the load acts on the other side."

[3] *Ref* 81 FR 96572, December 30, 2016.

[4] *See https://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/small_airplanes_regs/.*

Replace:	With:
ASTM F3116/F3116M–15, Section X1.1.1	FAA X1.1.1: "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to low-speed, level 1 and level 2 airplanes."
ASTM F3116/F3116M–15, Section X1.1.4	X1.1.4 through X1.1.4.5: Same as published in F3116/F3116M–15. *Add* FAA X1.1.4.6: "Wings with winglets, tip tanks, or tip fins."

23.2220: ASTM F3264–17, section 6.5

23.2225: ASTM F3264–17, section 6.6, combined with the changes in the following table:

Replace:	With:
ASTM F3116/F3116M–15, Section X2.1.1	FAA X2.1.1: "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to low-speed, level 1 and level 2 airplanes."
ASTM F3116/F3116M–15, Section X3.1.1	FAA X3.1.1: "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to low-speed, level 1 and level 2 airplanes."
ASTM F3116/F3116M–15, Section X4.1.1	FAA X4.1.1: "The methods provided in this appendix provide one possible means (but not the only possible means) of compliance and can only be applied to low-speed, level 1 airplanes."

23.2230: ASTM F3264–17, section 6.7

23.2235: ASTM F3264–17, section 6.8, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 6.8.1	FAA 6.8.1: "F3114–15 Standard Specification for Structures".

23.2240: ASTM F3264–17, section 6.9, combined with the changes in the following table:

Replace:	With:
ASTM F3115/F3115M–15, Section 4.4.1	FAA 4.4.1: "For metallic (aluminum), unpressurized, non-aerobatic, low-speed, level 1 airplanes, applicants can demonstrate a 10,000 hour safe-life by limiting the '1g' gross stress, at maximum takeoff weight, to no more than 5.5 ksi. The applicant must show effective stress concentration factors of 4 or less in highly loaded joints and use materials or material systems for which the physical and mechanical properties are well established."
ASTM F3115/F3115M–15, Section 6.1	FAA 6.1: "For bonded airframe structure, the residual strength of bonded joints shall be addressed as follows: For any bonded joint, the failure of which would result in catastrophic loss of the airplane, the limit load capacity must be substantiated by one of the following methods."

23.2245: ASTM F3264–17, section 6.10

23.2250: ASTM F3264–17, section 6.11

23.2255: ASTM F3264–17, section 6.12

23.2260: ASTM F3264–17, section 6.13

23.2265: ASTM F3264–17, section 6.14

23.2270: ASTM F3264–17, section 6.15

Subpart D—Design and Construction

23.2300: ASTM F3264–17, section 7.1, combined with the changes in the following table:

Replace:	With:
ASTM F3232/F3232M–17, Table 1, Row 4.4.6.	FAA Table 1, Row 4.4.6: A white circle ("o") in the following Aircraft Type Code (ATC) character fields: "Airworthiness Level—1" and "Stall Speed—L"; a mark-out ("x") in the following ATC character field: "Number of Engines—M"; and no codes in any other ATC character field. **Note:** This change applies the standard of ASTM F3232/F3232M–17, Section 4.4.6, to all single-engine airplanes except level 1 airplanes with a stall speed of 45 knots or less.

23.2305: ASTM F3264–17, section 7.2
23.2315: ASTM F3264–17, section 7.4
23.2320: ASTM F3264–17, section 7.5
23.2325: ASTM F3264–17, section 7.6, combined with the changes in the following table:

Replace:	With:
ASTM F3061/F3061M–17, Section 10.3.2	FAA 10.3.2: "In each area where flammable fluids or vapors might escape by leakage of a fluid system, there must be means to minimize the probability of ignition of the fluids and vapors, and the resultant hazard if ignition does occur. These means must account for the factors prescribed in 10.3.3 through 10.3.7."

23.2330: ASTM F3264–17, section 7.7
23.2335: ASTM F3264–17, section 7.8

Subpart E—Powerplant

23.2400: ASTM F3264–17, section 8.1, combined with the changes in the following table:

Replace:	With:
ASTM F3065/F3065M–15, Section 4.3	An FAA-accepted means of compliance for § 23.2400(c), such as the provisions of § 23.905(d), amendment 23–59.

23.2405: ASTM F3264–17, section 8.2
23.2410: ASTM F3264–17, section 8.3, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 8.3	8.3 through 8.3.2: Same as published in F3264–17. *Renumber* 8.3.3 to 8.3.6. *Add* FAA 8.3.3 through 8.3.5, and FAA 8.3.7: 8.3.3: "F3063/F3063M—16a Standard Specification for Design and Integration of Fuel/Energy Storage and Delivery System Installations for Aeroplanes". 8.3.4: "F3064/F3064M—15 Standard Specification for Control, Operational Characteristics and Installation of Instruments and Sensors of Propulsion Systems". 8.3.5: "F3065/F3065M—15 Standard Specification for Installation and Integration of Propeller System". 8.3.7: "F3117—15 Standard Specification for Crew Interface in Aircraft".

23.2415: ASTM F3264–17, section 8.4, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 8.4	8.4 through 8.4.1: Same as published in F3264–17. *Renumber* 8.4.2 to 8.4.3. *Add* FAA 8.4.2: F3063/F3063M—"16a Standard Specification for Design and Integration of Fuel/Energy Storage and Delivery System Installations for Aeroplanes".
ASTM F3066/F3066M–15, Section 5.1	An FAA-accepted means of compliance for the induction system ice protection aspects of § 23.2415, such as the provisions of § 23.1093(a), amendment 23–51.
ASTM F3066/F3066M–15, Section 5.2.1.1.	FAA 5.2.1.1: "Operate throughout its flight power range, including minimum descent idle speeds, in the icing and snow conditions specified in Specification F3120/F3120M, without the accumulation of ice on engine, inlet system components, or airframe components that would do any of the following:"
ASTM F3066/F3066M–15, Section 5.2.2	[Remove]
ASTM F3066/F3066M–15, Sections 5.2.3, 5.2.3.1, and 5.2.3.2.	FAA 5.2.2: "Each turbine engine must idle for 30 min on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in the ground icing conditions specified in Specification F3120/F3120M." FAA 5.2.2.1 Followed by momentary operation at takeoff power or thrust. FAA 5.2.2.2 During the 30 min of idle operation, the engine may be run up periodically to a moderate power or thrust setting."

23.2420: ASTM F3264–17, section 8.5, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 8.5	8.5 through 8.5.1: Same as published in F3264–17. *Remove* 8.5.2 and 8.5.3. *Add* FAA 8.5.2: F3065/F3065M—''15 Standard Specification for Installation and Integration of Propeller System''.

23.2425: ASTM F3264–17, section 8.6, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 8.6	8.6 through 8.6.2: Same as published in F3264–17. *Renumber* 8.6.3 to 8.6.4. *Add* FAA 8.6.3 and FAA 8.6.5: 8.6.3: ''F3065/F3065M—15 Standard Specification for Installation and Integration of Propeller System''. 8.6.5: ''F3117—15 Standard Specification for Crew Interface in Aircraft''.

23.2430: ASTM F3264–17, section 8.7, combined with the changes in the following table:

Replace:	With:
ASTM F3264–17, Section 8.7	8.7.1 through 8.7.5: Same as published in F3264–17. *Add* an FAA-accepted means of compliance for the fuel supply aspects of § 23.2430, such as the provisions of § 23.991(b), amendment 23–43.
ASTM F3066/F3066M–15, Section 6.3	An FAA-accepted means of compliance for the fuel/oil tank aspects of § 23.2430, such as the provisions of § 23.967(d), amendment 23–43.

23.2435: ASTM F3264–17, section 8.8

23.2440: ASTM F3264–17, section 8.9, combined with the changes in the following table:

Replace:	With:
ASTM Section 8.9, F3264–17	8.9 through 8.9.2: Same as published in F3264–17. *Renumber* 8.9.3 to 8.9.4. *Renumber* 8.9.4 to 8.9.5 and *change* to, ''F3066/F3066M–15 Standard Specification for Powerplant Systems Specific Hazard Mitigation.'' *Add* FAA 8.9.3: 8.9.3: ''F3063/F3063M–16a Standard Specification for Design and Integration of Fuel/Energy Storage and Delivery System Installations for Aeroplanes.''

Subpart F—Equipment

23.2500: ASTM F3264–17, section 9.1
23.2505: ASTM F3264–17, section 9.2
23.2510: ASTM F3264–17, section 9.3
23.2515: ASTM F3264–17, section 9.4
23.2520: ASTM F3264–17, section 9.5
23.2525: ASTM F3264–17, section 9.6
23.2530: ASTM F3264–17, section 9.7
23.2535: ASTM F3264–17, section 9.8
23.2540: ASTM F3264–17, section 9.9
23.2545: ASTM F3264–17, section 9.10
23.2550: ASTM F3061/F3061M–17, section 10.9

Subpart G—Flightcrew Interface and Other Information

23.2600: ASTM F3264–17, section 10.1, combined with the changes in the following table:

Replace:	With:
ASTM Section 10.1, F3264–17	10.1.1 through 10.1.5: Same as published in F3264–17. *Add* an FAA-accepted means of compliance for the windshield luminous transmittance aspects of § 23.2600, such as the provisions of § 23.775(e), amendment 23–49. *Add* an FAA-accepted means of compliance for the pilot compartment view with formation of fog or frost aspects of § 23.2600, such as the provisions of § 23.773(b), amendment 23–45.

23.2605: ASTM F3264–17, section 10.2

23.2610: ASTM F3264–17, section 10.3

23.2615: ASTM F3264–17, section 10.4, combined with the changes in the following table:

Replace:	With:
ASTM Section 6, F3064/F3064M–15	An FAA-accepted means of compliance for the powerplant instruments aspects of § 23.2615, such as the provisions of § 23.1305, amendment 23–52.

23.2620: ASTM F3264–17, sections 5.15 and 10.5

Editorial, Reapproval, Revision Or Withdrawal

The FAA expects a suitable consensus standard to be reviewed periodically. ASTM policy is that a consensus standard should be reviewed in its entirety by the responsible subcommittee and must be balloted for reapproval, revision, or withdrawal, within five years of its last approval date. ASTM reapproves a standard—denoted by the year of reapproval in parentheses (*e.g.,* F2427–05a(2013))—to indicate completion of a review cycle with no technical changes made to the standard. ASTM issues editorial changes—denoted by a superscript epsilon in the standard designation (F3235–17 $^{\varepsilon 1}$)—to correct information that does not change the meaning or intent of a standard. Any MOC accepted by this document that is based on a standard later reapproved or editorially changed is also considered accepted without the need for a NOA. ASTM revises a standard to make changes to its technical content. Revisions to consensus standards serving as the basis for MOC accepted by this document will not be automatically accepted and will require further FAA acceptance in order for the revisions to be an accepted MOC.

Availability

ASTM Standard F3264–17, ''Standard Specification for Normal Category Aeroplanes Certification,'' is available for online reading at *https://www.astm.org/READINGLIBRARY/.* ASTM International copyrights these consensus standards and charges the public a fee for service. Individual downloads or reprints of a standard (single or multiple copies, or special compilations and other related technical information) may be obtained through *www.astm.org* or by contacting ASTM at (610) 832–9585 (phone), (610) 832–9555 (fax), or through *service@astm.org* (email). To inquire about consensus standard content and/or membership or about ASTM Offices abroad, contact Joe Koury, Staff Manager for Committee F44 on General Aviation: (610) 832–9804, *jkoury@astm.org.*

The FAA maintains a list of accepted MOCs on the FAA website at *https://www.faa.gov/aircraft/air_cert/design_approvals/small_airplanes/small_airplanes_regs/.*

Issued in Kansas City, Missouri, on May 3, 2018.

Pat Mullen,

Manager, Small Airplanes Standards Branch, Aircraft Certification Service.

[FR Doc. 2018–09990 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0775; Product Identifier 2017–NM–048–AD; Amendment 39–19272; AD 2018–09–15]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–25–18, which applied to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. AD 2016–25–18 required an inspection for discrepancies of the attachment points of the links between the engine rear mount assemblies, and corrective actions if necessary. This AD requires an inspection of certain attachment points, corrective action if necessary, and replacement of certain bolts and nuts in the engine rear mount assemblies. This AD also adds airplanes to the applicability. This AD was prompted by the determination that replacement of certain nuts and bolts in the engine rear mount assemblies is necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of January 3, 2017 (81 FR 90961, December 16, 2016).

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th Street, 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–2017–0775.

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–2017–0775; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7329; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–25–18, Amendment 39–18744 (81 FR 90961,

December 16, 2016) (''AD 2016–25–18''). AD 2016–25–18 applied to certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The NPRM published in the **Federal Register** on August 15, 2017 (82 FR 38626). The NPRM was prompted by the determination that replacement of certain nuts and bolts in the engine rear mount assemblies is necessary. The NPRM proposed to continue to require an inspection for discrepancies of the attachment points of the links between the engine rear mount assemblies, and corrective actions if necessary. The NPRM also proposed to require an inspection of certain attachment points, corrective action if necessary, and replacement of certain bolts and nuts in the engine rear mount assemblies. The NPRM also proposed to add airplanes to the applicability. We are issuing this AD to detect and correct broken engine attachment hardware, which could result in separation of an engine from the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2016–23R1, dated February 20, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. The MCAI states:

> Bombardier reported that during maintenance of a BD–700 aeroplane, the engine mount pin, part number (P/N) BRR15838, was found backed out of the rear mount link. The retaining bolt, P/N AS54020, which passes through the engine mount pin was also found fractured at the groove which holds the locking spring. An investigation revealed the most probable root cause of failure to be a single axial tension static overload, with no evidence of fatigue contributing to the failure.
>
> The above condition if not detected, may result in the loss of engine attachment to the airframe.
>
> As an interim corrective action, Bombardier issued Service Bulletins (SBs) 700–71–002, 700–71–6002, 700–71–5002, and 700–1A11–71–002 to inspect the attachment points of the links between the engine rear mount assemblies, and install replacement hardware if required.
>
> The original version of this [Canadian] AD was issued to mandate incorporation of the above Bombardier SBs to inspect and maintain integrity of the affected engine rear mount assembly.
>
> Revision 1 of this [Canadian] AD is issued to mandate incorporation of the Bombardier SBs 700–71–003, 700–71–6003, 700–71–5003, and 700–1A11–71–003 to replace the existing bolts and self-locking nuts with new bolts and nuts, as a final corrective action.

The MCAI also adds airplanes having serial numbers 9764, 9766, and 9771 through 9785 inclusive to the applicability. Those airplanes are also affected by the identified unsafe condition. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0775.

Comments

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

Requests To Provide Credit for Actions Previously Accomplished

NetJets Aviation requested that we provide credit for accomplishing the actions specified in paragraphs (j) and (k) of the proposed AD prior to the effective date of this AD. Bombardier requested that we provide credit for accomplishing the actions specified in paragraphs (k) and (l) of the proposed AD prior to the effective date of this AD.

We acknowledge the commenters' requests and agree to clarify. Paragraph (f) of this AD states to accomplish the required actions within the compliance times specified, ''unless already done.'' Therefore, if operators have accomplished the actions required for compliance with this AD before the effective date of this AD, no further action is necessary. We have not revised this AD in this regard.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD 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

Bombardier, Inc. has issued the following service information. This service information describes procedures for an inspection for discrepancies of the attachment points of the links between the engine rear mount assemblies and corrective actions. These documents are distinct since they apply to different airplane models and serial numbers.

- Bombardier Service Bulletin 700–1A11–71–002, Revision 01, dated June 30, 2016.
- Bombardier Service Bulletin 700–71–002, Revision 01, dated June 30, 2016.
- Bombardier Service Bulletin 700–71–5002, Revision 01, dated June 30, 2016.
- Bombardier Service Bulletin 700–71–6002, Revision 01, dated June 30, 2016.

Bombardier, Inc. has also issued the following service information. This service information describes procedures for nut and bolt replacements. These documents are distinct since they apply to different airplane models and serial numbers.

- Bombardier Service Bulletin 700–1A11–71–003, dated December 5, 2016.
- Bombardier Service Bulletin 700–71–003, dated December 5, 2016.
- Bombardier Service Bulletin 700–71–5003, dated December 5, 2016.
- Bombardier Service Bulletin 700–71–6003, dated December 5, 2016.

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

Costs of Compliance

We estimate that this AD affects 97 airplanes of U.S. registry.

The actions required by AD 2016–25–18, and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2016–25–18 is $85 per product.

The retained on-condition costs in this AD take about 2 work-hours per product, at an average labor rate of $85 per work-hour. Required parts cost about $730 per product. Based on these figures, the estimated cost of the on-condition actions that are required by AD 2016–25–18 is $900 per product.

We have received no definitive data that would enable us to provide cost estimates for other retained on-condition actions specified in AD 2016–25–18.

We also estimate that it will take about 4 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost up to $14,940 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be up to $1,482,160, or up to $15,280 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

According to the manufacturer, some of the costs of this AD may be covered

under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all available costs in our cost estimate.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–25–18, Amendment 39–18744 (81 FR 90961, December 16, 2016), and adding the following new AD:

2018–09–15 Bombardier, Inc.: Amendment 39–19272; Docket No. FAA–2017–0775; Product Identifier 2017–NM–048–AD.

(a) Effective Date

This AD is effective June 15, 2018.

(b) Affected ADs

This AD replaces AD 2016–25–18, Amendment 39–18744 (81 FR 90961, December 16, 2016) (''AD 2016–25–18'').

(c) Applicability

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers (S/Ns) 9002 through 9785 inclusive, and 9998.

(d) Subject

Air Transport Association (ATA) of America Code 72, Engine.

(e) Reason

This AD was prompted by a report indicating that during maintenance, an engine mount pin was found backed out of the rear mount link, and the associated retaining bolt was also found fractured at the groove that holds the locking spring, and a determination that replacement of certain nuts and bolts in the engine rear mount assemblies is necessary. We are issuing this AD to detect and correct broken engine attachment hardware, which could result in separation of an engine from the airplane.

(f) Compliance

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

(g) Retained Inspection, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2016–25–18, with no changes. For airplanes having S/Ns 9002 through 9763 inclusive, 9765, 9767 through 9770 inclusive, and 9998: Within 500 flight hours or 4 months, whichever occurs first after January 3, 2017 (the effective date of AD 2016–25–18), do an inspection for discrepancies of the engine rear mount assemblies (including missing or broken bolts, missing nuts, incorrect torque values, and an incorrect gap between the bushing and washer); in accordance with Part A of the Accomplishment Instructions of the applicable service information specified in paragraphs (g)(1) through (g)(4) of this AD. Accomplishing the actions required by paragraphs (j) and (k) of this AD terminates the requirements of this paragraph.

(1) Bombardier Service Bulletin 700–1A11–71–002, Revision 01, dated June 30, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(2) Bombardier Service Bulletin 700–71–002, Revision 01, dated June 30, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(3) Bombardier Service Bulletin 700–71–5002, Revision 01, dated June 30, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(4) Bombardier Service Bulletin 700–71–6002, Revision 01, dated June 30, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(h) Retained Corrective Action for Paragraph (g) of This AD, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–25–18, with no changes. If any discrepancy is detected during the inspection required by paragraph (g) of this AD, before further flight, replace missing parts and correct noncompliant gaps and bolt torque, as specified in the Accomplishment Instructions of the applicable service information specified in paragraphs (g)(1) through (g)(4) of this AD, except as required by paragraph (i) of this AD. Accomplishing the actions required by paragraphs (j) and (k) of this AD terminates the requirements of this paragraph.

(i) Retained Exception to Service Information Specifications, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2016–25–18, with no changes. Where the applicable Bombardier service bulletin specified in paragraphs (g)(1) through (g)(4) of this AD provides no instructions for corrective actions, or specifies to contact Bombardier for appropriate action, accomplish corrective actions in accordance with the procedures specified in paragraph (o)(2) of this AD.

(j) New Requirement of This AD: Gap Measurement

Within 1,000 flight hours or 12 months, whichever occurs first after the effective date of this AD: Measure the gaps between the applicable shouldered bushing fitted on the mount beam and the washer; and between the applicable engine ring lug and the head of the mount pin to determine if the gaps are within acceptable limits; in accordance with Part A of the Accomplishment Instructions of the applicable service information specified in paragraphs (j)(1) through (j)(4) of this AD. Accomplishing the actions required by paragraphs (j) and (k) of this AD terminates the requirements of paragraphs (g) and (h) of this AD.

(1) Bombardier Service Bulletin 700–1A11–71–003, dated December 5, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(2) Bombardier Service Bulletin 700–71–003, dated December 5, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(3) Bombardier Service Bulletin 700–71–5003, dated December 5, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(4) Bombardier Service Bulletin 700–71–6003, dated December 5, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(k) New Requirement of This AD: Nut and Bolt Replacements, and Gap Measurement

Within 1,000 flight hours or 12 months, whichever occurs first after the effective date of this AD: Replace the nuts having part number (P/N) AS54365 and the bolts having P/N AS54020 and AS54002 in the engine rear mount assembly with new nuts and new bolts; and do the gap measurement to determine if the gap is within acceptable limits; in accordance with Part B of the Accomplishment Instructions of the applicable service information specified in paragraphs (j)(1) through (j)(4) of this AD.

(l) New Requirement of This AD: Corrective Action

If any gap is detected, during any measurement required by paragraph (j) or (k) of this AD, that is not within the applicable limits specified in the service information specified in paragraphs (j)(1) through (j)(4) of this AD, before further flight repair using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(m) No Reporting Required

Although the service information identified in paragraphs (j)(1) through (j)(4) of this AD specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(n) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before January 3, 2017 (the effective date of AD 2016–25–18), in accordance with the Accomplishment Instructions of the applicable service information specified in paragraphs (n)(1) through (n)(4) of this AD.

(1) Bombardier Service Bulletin 700–1A11–71–002, dated May 31, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(2) Bombardier Service Bulletin 700–71–002, dated May 31, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(3) Bombardier Service Bulletin 700–71–5002, dated May 31, 2016 (for Bombardier Model BD–700–1A11 airplanes).

(4) Bombardier Service Bulletin 700–71–6002, dated May 31, 2016 (for Bombardier Model BD–700–1A10 airplanes).

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, FAA, New York ACO Branch, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or TCCA; or Bombardier, Inc.'s TCCA DAO. If approved by the DAO, the approval must include the DAO-authorized signature.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2016–23R1, dated February 20, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0775.

(2) For more information about this AD, contact Aziz Ahmed, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7329; fax: 516–794–5531.

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

(q) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on June 15, 2018.

(i) Bombardier Service Bulletin 700–1A11–71–003, dated December 5, 2016.

(ii) Bombardier Service Bulletin 700–71–003, dated December 5, 2016.

(iii) Bombardier Service Bulletin 700–71–5003, dated December 5, 2016.

(iv) Bombardier Service Bulletin 700–71–6003, dated December 5, 2016.

(4) The following service information was approved for IBR on January 3, 2017 (81 FR 90961, December 16, 2016).

(i) Bombardier Service Bulletin 700–1A11–71–002, Revision 01, dated June 30, 2016.

(ii) Bombardier Service Bulletin 700–71–002, Revision 01, dated June 30, 2016.

(iii) Bombardier Service Bulletin 700–71–5002, Revision 01, dated June 30, 2016.

(iv) Bombardier Service Bulletin 700–71–6002, Revision 01, dated June 30, 2016.

(5) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone: 514–855–5000; fax: 514–855–7401; email: *thd.crj@aero.bombardier.com;* internet: *http://www.bombardier.com.*

(6) You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09734 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0363; Product Identifier 2017–NM–108–AD; Amendment 39–19268; AD 2018–09–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes; Model A340–200 series airplanes; and Model A340–300 series airplanes. This AD requires contacting the FAA to obtain instructions for addressing the unsafe condition on these products, and doing the actions specified in those instructions. This AD was prompted by reports of cracks on both left-hand (LH) and right-hand (RH) sides on certain frame (FR) locations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective May 29, 2018.

We must receive comments on this AD by June 25, 2018.

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

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

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0363; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2011–0171R1, dated January 11, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes; Model A340–200 series airplanes; and Model A340–300 series airplanes. The MCAI states:

> Fatigue damage has been found on the A330/A340 full scale fatigue test specimen in the FR40-to-fuselage skin panel junction. Corrective actions consisted of the following actions:
>
> —in-service installation of an internal reinforcing strap on related junction required by DGAC France AD 1999–448–126(B) and AD 2001–070(B),
>
> —retrofit improvement of internal reinforcing strap fatigue life through recommended Airbus SB A330–53–3145, and
>
> —new design in production through Airbus modification 44360.
>
> Recently, during embodiment of a FR40 web repair on an A330 aeroplane and during FR40 keel beam fitting replacement on an A340 aeroplane, this internal strap was removed and rototest inspection was performed on several holes. Cracks were found on both left-hand (LH) and right-hand (RH) sides on internal strap, or butt strap, or keel beam fitting, or forward fitting FR40 flange.
>
> This condition, if not detected and corrected, could lead to crack propagation, possibly resulting in reduced structural integrity of the fuselage.
>
> For the reasons described above, this [EASA] AD requires repetitive High Frequency Eddy Current (HFEC) rototest inspections on the affected adjacent holes on both LH and RH sides between stringer 38 and 39 at the FR40-to-fuselage panel junction, and in case of crack finding, accomplishment of the associated corrective actions.

* * * * *

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0363.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0363; Product Identifier 2017–NM–108–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, we provide the following cost estimates to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Repetitive special detailed inspection	54 work-hours × $85 per hour = $4,590 per inspection cycle.	$0	$4,590 per inspection cycle.

We estimate the following costs to do any necessary on-condition repair that would be required based on the results of the required actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	9 work-hours × $85 per hour = $765	Up to $3,200	Up to $3,965.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–09–11 Airbus: Amendment 39–19268; Docket No. FAA–2018–0363; Product Identifier 2017–NM–108–AD.

(a) Effective Date

This AD becomes effective May 29, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, on which Airbus modification 44360 has not been embodied in production.

(1) Airbus Model A330–301, –321, –322, –341, and –342 airplanes, all manufacturer serial numbers on which Airbus Service Bulletin A330–53–3093 has been embodied in service, except those on which Airbus Service Bulletin A330–53–3145 has been embodied in service.

(2) Airbus Model A340–211, –212, –213 airplanes, all manufacturer serial numbers on which Airbus Service Bulletin A340–53–4104 has been embodied in service.

(3) Airbus Model A340–311, –312, and –313 airplanes, all manufacturer serial numbers on which Airbus Service Bulletin A340–53–4104 has been embodied in service.

(d) Subject

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

(e) Reason

This AD was prompted by reports of cracks on both left-hand (LH) and right-hand (RH) sides on certain frame (FR) 40 locations. We are issuing this AD to detect and correct cracks of the fuselage panel junction fasteners at FR40 on both LH and RH sides. Such a condition could lead to crack propagation, possibly resulting in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Required Action(s)

Within 30 days after the effective date of this AD, request instructions from the Manager, International Section, Transport Standards Branch, FAA, to address the unsafe condition specified in paragraph (e) of this AD; and accomplish the actions at the times specified in, and in accordance with, those instructions. Guidance can be found in Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) AD 2011–0171R1, dated January 11, 2013.

(h) Alternative Methods of Compliance (AMOCs)

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

(i) Related Information

(1) Refer to MCAI EASA AD 2011–0171R1, dated January 11, 2013, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0363.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229.

(j) Material Incorporated by Reference

None.

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09848 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1100; Product Identifier 2017–NM–077–AD; Amendment 39–19273; AD 2018–09–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2015–15–13, which applied to certain Airbus Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2015–15–13 required a modification of the potable water service panel and waste water service panel, including doing applicable related investigative and corrective actions. This AD requires a modification of the waste water and potable water service panels with new compliance times. This AD also removes certain airplanes from the applicability and adds Model A320–216 airplanes to the applicability. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the potable water and waste water service panel areas are subject to widespread fatigue damage (WFD). We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 15, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 15, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 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–2017–1100.

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–2017–1100; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2015–15–13, Amendment 39–18223 (80 FR 45857, August 3, 2015) (''AD 2015–15–13''). AD 2015–15–13 applied to certain Airbus Model A319 series airplanes; Model A320–211, –212, –214, –231, –232, and –233 airplanes; and Model A321 series airplanes. The NPRM published in the **Federal Register** on December 14, 2017 (82 FR 58772). The NPRM was prompted by an evaluation by the DAH indicating that the potable water and waste service panel areas are subject to WFD. The NPRM proposed to require modification of the waste water and potable water service panels with new compliance times. The NPRM also proposed to remove certain airplanes from the applicability and add Model A320–216 airplanes to the applicability. We are issuing this AD to prevent cracking of the potable water and waste water service panel areas, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0098, dated June 7, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319 series airplanes; Airbus Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> During the full scale fatigue test on A320–200, it was noticed that, due to fatigue, cracks could initiate at the potable water and waste water service panel areas.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> Prompted by these findings, Airworthiness Limitation Section (ALS) Part 2 tasks were introduced for the affected aeroplanes. Since those actions were taken, Airbus developed production mod 160055 and mod 160056 to embody reinforcements (cold working on certain rivet rows) of the potable water and waste water service panels, and published associated Airbus Service Bulletin (SB) A320–53–1272 and Airbus SB A320–53–1267 for in-service embodiment. Complementary design office studies highlighted that the ''Sharklets'' installation on certain aeroplanes has a significant impact on the aeroplane structure (particularly, A319 and A320 post-mod 160001, A320 post-SB A320–57–1193 (mod 160080), and A321 post-mod 160021), leading to different compliance times, depending on aeroplane configuration.
>
> Consequently, EASA issued AD 2014–0081 [which corresponds to FAA AD 2015–15–13] to require reinforcement of the potable water and waste water service panels. Accomplishment of these modifications cancelled the need for the related ALS Part 2 Tasks.
>
> Since that [EASA] AD was issued, further investigations linked to the Widespread Fatigue Damage (WFD) analysis highlighted that, to meet the WFD requirements, it is necessary that the affected modification is not accomplished before reaching a certain threshold, by imposing a so-called ''window of embodiment''. Consequently, Airbus revised SB A320–53–1272 (now at revision (Rev.) 04) and SB A320–53–1267 (now at Rev. 05).
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0081, which is superseded, and introduces additional compliance times for those actions.

This AD also removes Model A319 series airplanes on which modification 28162, 28238, and 28342 have been embodied (''Corporate Jet'' modifications) from the applicability because production modifications mitigated the risk associated with the unsafe condition. This AD also adds Model A320–216 airplanes to the applicability, because those airplanes are affected by the identified unsafe condition.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1100.

Comments

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

Request To Fix Typographical Error in Heading of Table 1 of the Proposed AD

Airbus requested that the typographical error in table 1 to paragraphs (g)(1) and (i) of the proposed AD be changed from ''portable water'' to ''potable water.''

We agree with the commenter's request and have revised the heading of table 1 of this AD accordingly.

Request To Fix Typographical Error in a Compliance Time Specified in Table 2 of the Proposed AD

Airbus requested that the typographical error in the proposed compliance time in table 2 to paragraphs (h)(1) and (i) of the proposed AD affecting airplanes ''A319, pre-modification 160001 and pre-service bulletin A320–57–1193,'' be changed from ''28,600 total flight cycles'' to ''38,600 total flight cycles.''

We agree with the commenter's request and have corrected the specified compliance time in table 2 of this AD accordingly.

Request for Credit for Previous Actions

An anonymous commenter requested that certain service information be added to the Credit for Previous Actions section in the proposed AD. The commenter stated that Alternative Method of Compliance (AMOC) ANM–116–17–195 allows the use of Airbus Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016; and Airbus Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016; with respect to AD 2015–15–13. The commenter pointed out that these are the same revision levels specified for the requirements in the proposed AD.

We do not agree with the request. We recognize that it is possible to have already accomplished Airbus Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016; and Airbus Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016; before this AD becomes effective. However, this service information is required for the actions identified in this AD. Paragraph (f) ''Compliance,'' of this AD states, ''Comply with this AD within the compliance times specified, unless already done.'' If operators have already completed the requirements of this AD, then this AD does not require that those actions be repeated. We have made no change to this AD in this regard.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016, which describes procedures for modifying the waste water service panel. Airbus has also issued Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016, which describes procedures for modifying the potable water service panel. Both modifications include a check of the diameter of the holes of removed fasteners, a related investigative action (rotating probe inspection for cracking on the holes of the removed fasteners) and a corrective action (repair). This service information is unique because it applies to different service panels. 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.

Explanation of Compliance Time

The compliance time for the replacement specified in this AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this AD affects 851 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification (new action)	27 work-hours × $85 per hour = $2,295	$700	$2,995	$2,548,745

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

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–15–13, Amendment 39–18223 (80 FR 45857, August 3, 2015), and adding the following new AD:

2018–09–16 Airbus: Amendment 39–19273; Docket No. FAA–2017–1100; Product Identifier 2017–NM–077–AD.

(a) Effective Date

This AD is effective June 15, 2018.

(b) Affected ADs

This AD replaces AD 2015–15–13, Amendment 39–18223 (80 FR 45857, August 3, 2015) (''AD 2015–15–13'').

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, except for those airplanes on which Airbus modification 160055 or modification 160056 has been embodied in production, and except for Model A319 series airplanes on which modification 28162, 28238, and 28342 have been embodied (''Corporate Jet'').

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

(2) Airbus Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes.

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

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the potable water and waste water service panel areas are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent cracking of the potable water and waste water service panel areas, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Modification of the Potable Water Service Panel

(1) Within the compliance times specified in table 1 to paragraphs (g)(1) and (i) of this AD, as applicable, modify the potable water service panel, including doing a check of the diameter of the holes of removed fasteners, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016, except as required by paragraph (g)(2) of this AD. Do all applicable related investigative and corrective actions before further flight.

BILLING CODE 4910–13–P

Table 1 to Paragraphs (g)(1) and (i) of this AD – *Compliance Times for the Potable Water Service Panel Reinforcement*

Affected Airplanes*	Compliance Time Minimum**	Compliance Time Maximum (Before the accumulation of the specified total flight cycles since the airplane's first flight)
A319, pre-modification 160001 and pre-service bulletin A320-57-1193	33,100 total flight cycles	48,500 total flight cycles
A319, post-modification 160001 or post-service bulletin A320-57-1193	None	46,000 total flight cycles
A320, pre-modification 160001 and pre-service bulletin A320-57-1193	25,100 total flight cycles	54,200 total flight cycles
A320, post-modification 160001 or post-service bulletin A320-57-1193	None	48,300 total flight cycles
A321-100	25,100 total flight cycles	60,000 total flight cycles
A321-200 pre-modification 160021	22,100 total flight cycles	60,000 total flight cycles
A321-200 post-modification 160021	None	60,000 total flight cycles

*A321-111, A321-112 and A321-131 airplanes are collectively referred to as "A321-100." Similarly, A321-211, A321-212, A321-213, A321-231 and A321-232 airplanes are collectively referred to as "A321-200."
**Not before accumulating the specified total flight cycles since the airplane's first flight.

(2) Where Airbus Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016, specifies to contact Airbus for appropriate action, and specifies that action as "RC" (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (m)(2) of this AD.

(h) Modification of the Waste Water Service Panel

(1) Within the compliance times specified in table 2 to paragraphs (h)(1) and (i) of this AD, as applicable, modify the waste water service panel, including doing a check of the diameter of the holes of removed fasteners, and do all applicable related investigative and corrective actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016, except as required by paragraph (h)(2) of this AD. Do all applicable related investigative and corrective actions before further flight.

Table 2 to Paragraphs (h)(1) and (i) of this AD – *Compliance Times for the Waste Water Service Panel Reinforcement*

Affected Airplanes*	Compliance Time Minimum**	Compliance Time Maximum
A319, pre-modification 160001 and pre-service bulletin A320-57-1193	38,600 total flight cycles	Before the accumulation of 44,400 total flight cycles since the airplane's first flight
A319, post-modification 160001 or post-service bulletin A320-57-1193	None	Before the accumulation of 43,600 total flight cycles since the airplane's first flight
A320, pre-modification 160001 and pre-service bulletin A320-57-1193	35,800 total flight cycles	Before the accumulation of 46,000 total flight cycles since the airplane's first flight; or within 2,300 flight cycles since the last accomplishment of Airworthiness Limitation Section (ALS) Part 2 Task 534126-01-3 without exceeding 48,000 total flight cycles since the airplane's first flight; whichever occurs later
A320, post-modification 160001 or post-service bulletin A320-57-1193	5,400 total flight cycles	Before the accumulation of 39,200 total flight cycles since the airplane's first flight
A321-100	36,900 total flight cycles	Before the accumulation of 52,500 total flight cycles since the airplane's first flight
A321-200 pre-modification 160021	35,700 total flight cycles	Before the accumulation of 53,500 total flight cycles since the airplane's first flight
A321-200 post-modification 160021	None	Before the accumulation of 51,200 total flight cycles since the airplane's first flight

*A321-111, A321-112 and A321-131 airplanes are collectively referred to as "A321-100." Similarly, A321-211, A321-212, A321-213, A321-231 and A321-232 airplanes are collectively referred to as "A321-200."

**Not before accumulating the specified total flight cycles since the airplane's first flight.

(2) Where Airbus Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016, specifies to contact Airbus for appropriate action, and specifies that action as "RC" (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (m)(2) of this AD.

(i) Corrective Action for Airplanes With Certain Modifications

For airplanes on which the modification, as required by paragraph (g) or (h) of this AD, as applicable, was accomplished before reaching the applicable minimum compliance time as defined in table 1 to paragraphs (g)(1) and (i) of this AD or table 2 to paragraphs (h)(1) and (i) of this AD: Before exceeding 60,000 flight cycles since the airplane's first flight, contact the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA) for approved corrective action instructions and accomplish those instructions accordingly. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Terminating Action for Airplanes on Which the Potable Water Service Panel Modification Is Done

Modification of an airplane as required by paragraph (g) of this AD terminates the requirement for accomplishing the ALS Part 2 task for that airplane as specified in table 3 to paragraph (j) of this AD, as applicable.

Table 3 to Paragraph (j) of this AD – *ALS Part 2 Task terminated after Potable Water Service Panel Modification*

Affected Airplanes	ALS Part 2 Task Number
A319, pre-modification 160001 and pre-service bulletin A320-57-1193	534125-01-2
A319, post-modification 160001 or post-service bulletin A320-57-1193	534125-01-5
A320, pre-modification 160001 and pre-service bulletin A320-57-1193	534125-01-3
A320, post-modification 160001 or post-service bulletin A320-57-1193	534125-01-6
A321 pre-modification 160021	534125-01-4
A321 post-modification 160021	534125-01-7

(k) Terminating Action for Airplanes on Which the Waste Water Service Panel Modification Is Done

Modification of an airplane as required by paragraph (h) of this AD terminates the requirement for accomplishing the ALS Part 2 task for that airplane as specified in table 4 to paragraph (k) of this AD, as applicable.

Table 4 to Paragraph (k) of this AD – *ALS Part 2 Task terminated after Waste Water Service Panel Modification*

Affected Airplanes	ALS Part 2 Task Number
A319, pre-modification 160001 and pre-service bulletin A320-57-1193	534126-01-2
A319, post-modification 160001 or post-service bulletin A320-57-1193	534126-01-5
A320, pre-modification 160001 and pre-service bulletin A320-57-1193	534126-01-3
A320, post-modification 160001 or post-service bulletin A320-57-1193	534126-01-6
A321 pre-modification 160021	534126-01-4
A321 post-modification 160021	534126-01-7

BILLING CODE 4910–13–C

(l) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using the service information in paragraphs (l)(1)(i) through (l)(1)(iv) of this AD.

(i) Airbus Service Bulletin A320–53–1272, Revision 00, dated January 10, 2013, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A320–53–1272, Revision 01, dated August 6, 2013, which is not incorporated by reference in this AD.

(iii) Airbus Service Bulletin A320–53–1272, Revision 02, dated May 19, 2014, which was incorporated by reference in AD 2015–15–13.

(iv) Airbus Service Bulletin A320–53–1272, Revision 03, dated November 26, 2015, which is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD if those actions were performed before the effective date of this AD using the service information in paragraphs (l)(2)(i) through (l)(2)(v) of this AD.

(i) Airbus Service Bulletin A320–53–1267, Revision 00, dated June 24, 2013, which is not incorporated by reference in this AD.

(ii) Airbus Service Bulletin A320–53–1267, Revision 01, dated October 2, 2013, which is not incorporated by reference in this AD.

(iii) Airbus Service Bulletin A320–53–1267, Revision 02, dated May 19, 2014, which was incorporated by reference in AD 2015–15–13.

(iv) Airbus Service Bulletin A320–53–1267, Revision 03, dated November 26, 2015, which is not incorporated by reference in this AD.

(v) Airbus Service Bulletin A320–53–1267, Revision 04, dated February 1, 2016, which is not incorporated by reference in this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraphs (g)(2) and (h)(2) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0098, dated June 7, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1100.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223.

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (o)(3) and (o)(4) of this AD.

(o) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–53–1272, Revision 04, dated November 29, 2016.

(ii) Airbus Service Bulletin A320–53–1267, Revision 05, dated November 29, 2016.

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

(4) You may view this service information at the FAA, Transport Standards Branch, 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 Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09862 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0398; Product Identifier 2017–NM–113–AD; Amendment 39–19277; AD 2018–10–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 787–8 airplanes. This AD requires inspecting the part number of the occupant restraint system on the standard attendant seats, and doing additional inspections and corrective actions if necessary. This AD was prompted by a report of loose attachment bolts on the occupant restraint system on a standard attendant seat due to the bolts being over-torqued during production. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 29, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 29, 2018.

We must receive comments on this AD by June 25, 2018.

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

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

For service information identified in this final rule, contact Boeing

Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0398.

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–2018–0398; 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 street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Julie Moon, Aerospace Engineer, Cabin Safety and Environmental Systems Section, Seattle ACO Branch, FAA, 2200 South 216th St., Des Moines, WA 98198–6547; phone: 206–231–3571; email: *julie.moon@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report of loose attachment bolts on the occupant restraint system on a standard attendant seat due to the bolts being over-torqued during production. One operator reported that a seat belt lower mount helicoil was detached from the seat pan lever while the attachment bolt was still threaded into the helicoil. Investigation revealed that the attachment bolt was probably over-torqued during production. Over-torqueing the attachment bolt could damage the bolt or the helicoil installation, and reduce the strength of the restraint system. Failure of the restraint system of the attendant seat during turbulence or a high-G load event could result in serious injury.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Service Bulletin B787–81205–SB250052–00, Issue 001, dated January 27, 2014. This service information describes procedures for inspecting the part number of the occupant restraint system on the standard attendant seats, and doing additional inspections and corrective actions if necessary. The additional inspections include a general visual inspection for any gap of the interface of the lever and spacer, a general visual inspection for any flattened or stripped threads, verification that the lap belt bolt helicoil in the lever does not protrude beyond the bottom surface of the counterbore, and a general visual inspection for a visible metal shaving or fragments of the lap belt bolt and lever helicoil. Corrective actions include re-torqueing and reworking the bolts and lever. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously, except as discussed under ''Difference Between this AD and the Service Information.''

Difference Between This AD and the Service Information

Operators should note that, although the service bulletin recommends accomplishing the inspection of the occupant restraint system within 50 months (after the release of the service bulletin), the FAA has determined that accomplishing the inspection within five years after the effective date of this AD is adequate to address the identified unsafe condition. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the inspection (one hour). In light of all of these factors, the FAA finds a five-year compliance time for completing the inspection is warranted, in that it represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. This difference has been coordinated with Boeing.

FAA's Justification and Determination of the Effective Date

There are currently no domestic operators of this product. Therefore, we find that notice and opportunity for prior public comment are unnecessary and 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 was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2018–0398 and Product Identifier 2017–NM–113–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. We will consider all comments received by the closing date and may amend this final rule 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 final rule.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. If an affected airplane is imported and placed on the U.S. Register in the future, the following cost estimates to comply with this AD would apply:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection for part number (P/N)	1 work-hour × $85 per hour = $85	$0	$85
Inspection of affected attendant seats	2 work-hours × $85 per hour = $170	0	170

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Rework	2 work-hours × $85 per hour = $170	$0	$170

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):

2018–10–02 The Boeing Company: Amendment 39–19277; Docket No. FAA–2018–0398; Product Identifier 2017–NM–113–AD.

(a) Effective Date

This AD is effective May 29, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 787–8 airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report of loose attachment bolts on the occupant restraint system on a standard attendant seat due to the bolts being over-torqued. We are issuing this AD to address potential failure of the restraint system of the attendant seat during turbulence or a high-G load event, which could result in serious injury.

(f) Compliance

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

(g) Inspection and Applicable Corrective Actions

Within 5 years after the effective date of this AD: Inspect the occupant restraint system on the standard attendant seats for any restraint system having a part number identified in the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB250052–00, Issue 001, dated January 27, 2014.

(1) For any affected occupant restraint system: Within 5 years after the effective date of this AD, inspect the affected attendant seat for discrepancies, including a general visual inspection for any gap of the interface of the lever and spacer, a general visual inspection for any flattened or stripped threads, verification that the lap belt bolt helicoil in the lever does not protrude beyond the bottom surface of the counterbore, and a general visual inspection for visible metal shavings or fragments of the lap belt bolt and lever helicoil; and do all applicable torqueing of the lap belt bolt, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB250052–00, Issue 001, dated January 27, 2014.

(2) For any discrepant attendant seat, before further flight rework the attachment bolt, the seat pan lever and bolts, and the dampener bolt, in accordance with the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB250052–00, Issue 001, dated January 27, 2014.

Note 1 to paragraph (g) of this AD: Guidance on the inspections and rework can be found in Goodrich Service Bulletin 2787–25–009, dated June 28, 2013.

(h) Inspection Definition

For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install an occupant restraint system having a part number identified in the Accomplishment Instructions of Boeing Service Bulletin B787–81205–SB250052–00,

Issue 001, dated January 27, 2014, on any airplane.

(j) 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 (k)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(k) Related Information

(1) For more information about this AD, contact Julie Moon, Aerospace Engineer, Cabin Safety and Environmental Systems Section, Seattle ACO Branch, FAA, 2200 South 216th St., Des Moines, WA 98198–6547; phone: 206–231–3571; email: *julie.moon@faa.gov.*

(2) For Goodrich service information identified in this AD, contact Goodrich Corporation, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040–1169; telephone 602–243–2200; internet *http://www.goodrich.com/TechPubs.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin B787–81205–SB250052–00, Issue 001, dated January 27, 2014.

(ii) Reserved.

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

(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 Des Moines, Washington, on May 1, 2018.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09747 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0970; Airspace Docket No. 16–AAL–6]

RIN 2120–AA66

Establishment of Class E Airspace, Manley Hot Springs, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Manley Hot Springs Airport, Manley Hot Springs, AK, to accommodate new area navigation (RNAV) procedures at the airport. This action ensures the safety and management of instrument flight rules (IFR) operations within the National Airspace System. Also, this action corrects a rounding error of one second in degrees of latitude for the geographic coordinates of the airport.

DATES: Effective 0901 UTC, July 19, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA, 98198–6547; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the surface at Manley Hot Springs Airport, Manley Hot Springs, AK, to support standard instrument approach procedures for IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 58142; December 11, 2017) for Docket No. FAA–2017–0970 to establish Class E airspace extending upward from 700 feet above the surface at Manley Hot Springs Airport, Manley Hot Springs, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA found a one-second rounding error in degrees of latitude for the geographic coordinates for the airport. A correction to the error is included in this action.

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

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Manley Hot Springs Airport. This amendment also makes a one second correction to degrees of latitude for the geographic coordinates of the airport from ''lat. 64°59′16″ N'' to ''lat. 64°59′17″ N''

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Manley Hot Springs, AK [New]

Manley Hot Springs Airport, AK
(Lat. 64°59′17″ N, long. 150°38′51″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Manley Hot Springs Airport.

Issued in Seattle, Washington, on May 4, 2018.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09987 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0973; Airspace Docket No. 17–ANM–30]

RIN 2120–AA66

Establishment of Class E Airspace, Paris, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID, to accommodate new area navigation (RNAV) procedures at the airport. This action is necessary for the safety and management of instrument flight rules (IFR) operations within the National Airspace System.

DATES: Effective 0901 UTC, July 19, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace extending upward from 700 feet above the earth at Bear Lake County Airport, Paris, ID, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 60132; December 19, 2017) for Docket No. FAA–2017–0973 to establish Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID.

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

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

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID, within a 6.6-mile radius of the airport, and within a rectangular segment east of the airport extending approximately 15.3 miles wide (from east to west) and 28.1 miles tall (from north to south), and a trapezoidal area west of the airport extending approximately 10.5 miles wide (from east to west) and 33.8 miles tall (from north to south).

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM ID E5 Paris, ID [New]

Bear Lake County Airport, ID
(Lat. 42°14′59″ N, long. 111°20′30″ W)

That airspace extending upward from 700 feet above the surface of Bear Lake County Airport within the area bounded by lat. 42°29′26″ N, long. 111°36′13″ W; to lat. 42°29′32″ N, long. 111°28′55″ W; to lat. 42°21′52″ N, long. 111°28′07″ W; to the point where the airport 325° bearing intersects the airport 6.6-mile radius; thence clockwise along the 6.6-mile radius of the airport to the airport 017° bearing, to lat. 42°34′39″ N, long. 111°19′45″ W; to lat. 42°35′06″ N, long. 110°59′38″ W; to lat. 42°08′06″ N, long. 110°54′19″ W; to lat. 42°05′45″ N, long. 111°15′34″ W; to the point where the airport 150° bearing intersects the 6.6-mile radius of the airport, thence clockwise along the 6.6-mile radius of the airport to the airport 226° bearing, to lat. 41°55′22″ N, long. 111°25′20″ W; to lat. 41°55′58″ N, long. 111°44′44″ W; thence to the point of beginning.

Issued in Seattle, Washington, on May 4, 2018.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09988 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Parts 50 and 51

[Public Notice 10383]

RIN 1400–AD54

Passports

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule provides various changes and updates to the Department of State passport rules. The final rule incorporates statutory passport denial and revocation requirements for certain convicted sex offenders. It notes that, notwithstanding the legal bases for denial or revocation of a passport, the Department may issue a passport for direct return to the United States. It sets out the Department's procedures for denying and cancelling Consular Reports of Birth Abroad. Finally, the final rule provides additional information relating to the conduct of review hearings.

DATES: This rule is effective on May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Anita Mody, Office of Legal Affairs, Passport Services, (202) 485–6500, *PassportRules@state.gov.* Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 9804 at 82 FR 58778, December 14, 2017, with a request for comments, amending various sections of Parts 50 and 51 of Title 22 of the Code of Federal Regulations. The rule was proposed primarily to revise Department of State regulations relating to the denial and revocation of passports, and provide additional information relating to the conduct of review hearings. The rule and the Department's reasons for the changes were discussed in detail in Public Notice 9804. The Department is now promulgating a final rule.

The final rule contains one minor change, one technical fix, and no substantive changes. The change, in

response to a comment received, clarifies in 22 CFR 51.70(b)(3) that the section referenced only applies to passport cards.

Analysis of Comments: The comment period for the proposed rule closed February 12, 2018, after a 60-day comment period. One comment was received. The comment raised two issues:

(1) As 22 CFR 51.60(g) specifies that the Department shall not issue passport *cards* to certain convicted sex offenders, the parenthetical descriptor in proposed 22 CFR 51.70(b)(3): ''Section 51.60(g) (denial of passports to certain convicted sex offenders)'' should specify that it only applies to passport cards.

Response: The Department's final rule specifies ''cards'' in the parenthetical descriptor, such that 22 CFR 51.70(b)(3) now reads: Section 51.60(g) (denial of passport cards to certain convicted sex offenders).

(2) The governing statute, 22 U.S.C. 212b, allows but does not require the Department to revoke the existing passports held by covered sex offenders that do not bear the ''unique identifier'' required by that statute. See 22 U.S.C. 212b(b)(1) (''[T]he Secretary of State . . . may revoke a passport previously issued without [] an identifier of a covered sex offender.'' [emphasis added]). The proposed rules therefore err in processing revocations on this basis in the same manner as revocations on other bases, such as a conviction for ''sexual tourism'' under 18 U.S.C. 2423 and 22 U.S.C. 212a(b)(1). The proposed rules also err in rendering the passports currently held by ''covered sex offenders'' to be invalid immediately upon approval of the notice of revocation. That is because revocations for a sexual tourism conviction (and for other reasons) are mandatory, while the revocation of passports issued to ''covered sex offenders'' is not mandatory under 22 U.S.C. 212b or any other provision of law. In addition, individuals convicted of sexual tourism are categorically ineligible to hold passports during the period following their conviction. In contrast, ''covered sex offenders'' under 22 U.S.C. 212b are allowed to carry their existing passports that do not bear the identifier for an indeterminate period of time, until that passport is revoke by the Department. Because ''covered sex offenders'' who currently possess passports are not in violation of the law, they should not be treated the same as individuals whose current possession of a passport is illegal. The governing statute, 22 U.S.C. 212b(b)(1), gives the Department the discretion to avoid this inequitable and unduly disruptive result by providing a reasonable time for ''covered sex offenders'' to apply for and obtain new, compliant passports before their existing passports are revoked. ACSOL therefore requests that the Department provide this accommodation by revising the Proposed Rules so that ''covered sex offenders'' are not prevented from possessing and using passports while they await the delivery of passports that comply with 22 U.S.C. 212b.''

Response: The Department declines to process passport revocations differently when revoked based on discretionary authority versus where revocation is mandatory, and notes the effect of the decision to revoke the passport—making the passport invalid—is the same in both cases. Adopting the commenter's suggestion that a passport not become invalid after it was revoked would negate the purpose of the revocation action. Moreover, in response to concern that covered sex offenders be afforded an opportunity to apply for and obtain new, compliant passports before their existing passports are revoked, such persons are on notice about the new revocation grounds and may always apply for a new passport with the required endorsement prior to expiration of or revocation of their current one. To the extent the comment addresses the Department's determination to revoke passports under 22 U.S.C. 212b, such issues are outside the scope of the immediate rule as they are already specified in the current regulations at 22 CFR 51.60(a)(4) and 22 CFR 51.62(a)(1).

Finally, the Department noticed a typographical error in a citation included in the proposed rule. The citation relating to qualified interpreters (see § 51.71(d)) should be ''28 U.S.C. 1827.'' It is corrected in this final rule.

Regulatory Analysis and Notices

Executive Orders 12866 and 13771

The Department finds that this final rulemaking implements Congressional intent as reflected in the Immigration and Naturalization Act, and that the benefits of the rulemaking outweigh any costs to the public. The Office of Information and Regulatory Affairs has designated this final rule as non-significant within the meaning of Executive Order 12866. Consequently, no actions are required pursuant to Executive Order 13771.

Consultations With Tribal Governments

The Department has determined that this rulemaking will not have Tribal implications, will not impose substantial direct compliance costs on Indian Tribal governments, and will not pre-empt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose information collection requirements under the provisions of the Paperwork Reductions Act, 44 U.S.C. Chapter 35.

The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule does not result in any such expenditure nor will it significantly or uniquely affect small governments.

Executive Orders 12372 and 13132

This rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Small Business Regulatory Enforcement Fairness Act of 1996

The Department does not believe this rulemaking is a major rule under the criteria of 5 U.S.C. 804.

Regulatory Flexibility Act/Executive Order 13272: Small Business

The Department certifies that this rule is not expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* and Executive Order 13272, section 3(b), as the rule being amended covers only individuals.

List of Subjects

22 CFR Part 50

Citizenship and naturalization.

22 CFR Part 51

Administrative practice and procedure, Drug traffic control,

Passports and visas, Reporting and recordkeeping requirements.

Accordingly, for the reasons set forth in the preamble, 22 CFR parts 50 and 51 are amended as follows:

PART 50—NATIONALITY PROCEDURES

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

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104 and 1401 through 1504.

■ 2. Amend § 50.7 by revising paragraph (d) to read as follows

§ 50.7 Consular Report of Birth Abroad of a Citizen of the United States of America.

* * * * *

(d) A Consular Report of Birth Abroad may be cancelled in accordance with applicable provisions in 22 CFR 51.60 through 51.74.

■ 3. Amend § 50.11 by revising paragraph (b) to read as follows:

§ 50.11 Certificate of identity for travel to the United States to apply for admission.

* * * * *

(b) When a diplomatic or consular officer denies an application for a certificate of identity under this section, the applicant may submit a written appeal to the Secretary through the U.S. embassy or consulate where the individual applied for the certificate of identity, stating the pertinent facts, the grounds upon which U.S. nationality is claimed, and his or her reasons for considering that the denial was not justified.

PART 51—PASSPORTS

■ 4. The authority citation for part 51 is revised to read as follows:

Authority: 8 U.S.C. 1504; 18 U.S.C. 1621, 2423; 22 U.S.C. 211a, 212, 212a, 212b, 213, 213n (Pub. L. 106–113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A–430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2721, 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of P.L. 103–317, 108 Stat. 1760]; E.O. 11295, FR 10603; Pub. L. 114–119, 130 Stat. 15; Sec. 1 of P.L. 109–210, 120 Stat. 319; Sec. 2 of P.L. 109–167, 119 Stat. 3578; Sec. 5 of P.L. 109–472, 120 Stat. 3554; P.L. 108–447, Div. B, Title IV 118 Stat. 2896; P.L. 108–458, 118 Stat. 3638, 3823.

■ 5. Amend § 51.4 by revising paragraph (g)(1) and adding paragraph (g)(8) to read as follows:

§ 51.4 Validity of passports.

* * * * *

(g) * * *

(1) The Department approves the revocation notification pursuant to § 51.65(a); or

* * * * *

(8) The Department approves a Certificate of Loss of Nationality for the passport holder pursuant to § 50.40 of this chapter and 8 U.S.C. 1481.

■ 6. Revise the heading of subpart E to read as follows:

Subpart E—Denial, Revocation, and Restriction of Passports and Cancellation of Consular Reports of Birth Abroad

■ 7. Amend § 51.60 by adding paragraphs (h) and (i) to read as follows:

§ 51.60 Denial and restriction of passports.

* * * * *

(h) The Department may not issue a passport, except a limited validity passport for direct return to the United States or in instances where the Department finds that emergency circumstances or humanitarian reasons exist, in any case in which the Department is notified by the Attorney General that, during the covered period as defined by 22 U.S.C. 212a:

(1) The applicant was convicted of a violation of 18 U.S.C. 2423, and

(2) The individual used a passport or passport card or otherwise crossed an international border in committing the underlying offense.

(i) In appropriate circumstances, where an individual's passport application is denied or passport revoked consistent with this part, the Department may issue a limited validity passport good only for direct return to the United States.

■ 8. Revise § 51.62 to read as follows:

§ 51.62 Revocation or limitation of passports and cancellation of Consular Reports of Birth Abroad.

(a) The Department may revoke or limit a passport when:

(1) The bearer of the passport may be denied a passport under 22 CFR 51.60 or 51.61 or any other applicable provision contained in this part;

(2) The passport was illegally, fraudulently or erroneously obtained from the Department; or was created through illegality or fraud practiced upon the Department; or

(3) The passport has been fraudulently altered or misused.

(b) The Department may revoke a passport when the Department has determined that the bearer of the passport is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship or certificate of naturalization has been cancelled.

(c) The Department may cancel a Consular Report of Birth Abroad when:

(1) The Consular Report of Birth Abroad was illegally, fraudulently or erroneously obtained from the Department, or was created through illegality or fraud practiced upon the Department;

(2) The Consular Report of Birth Abroad has been fraudulently altered or misused; or

(3) The Department has determined that the bearer of the Consular Report of Birth Abroad is not a U.S. national, or the Department is on notice that the bearer's certificate of citizenship has been cancelled.

(d) The Department shall revoke a U.S. passport in any case in which the Department is notified by the Attorney General, that during the covered period as defined by 22 U.S.C. 212a:

(1) The applicant was convicted of a violation of 18 U.S.C. 2423, and

(2) The individual used a passport or otherwise crossed an international border in committing the underlying offense.

(3) Notwithstanding paragraphs (d)(1) and (2) of this section, the Department may issue a limited validity passport for direct return to the United States.

■ 9. Revise § 51.65 to read as follows:

§ 51.65 Notification of denial, revocation or cancellation of passports and Consular Reports of Birth Abroad.

(a) The Department will send notice in writing to any person whose application for issuance of a passport or Consular Report of Birth Abroad has been denied, whose passport has been revoked, or whose Consular Report of Birth Abroad has been cancelled. The notification will set forth the specific reasons for the denial, revocation or cancellation and, if applicable, the procedures for review available under 22 CFR 51.70 through 51.74.

(b) An application for a passport or Consular Report of Birth Abroad will be denied if an applicant fails to meet his or her burden of proof under the applicable regulations or otherwise does not provide documentation sufficient to establish entitlement to a passport or a Consular Report of Birth Abroad, or does not provide additional information as requested by the Department within the time provided in the notification by the Department that additional information is required. Thereafter, if an applicant wishes the Department to adjudicate his or her claim of entitlement to a passport or Consular Report of Birth Abroad, he or she must submit a new application, supporting documents, and photograph, along with all applicable fees.

(c) The Department may, in its sole discretion, administratively re-open a previously filed passport or Consular Report of Birth Abroad application in order to issue a passport or Consular Report of Birth Abroad.

■ 10. Revise § 51.66 to read as follows:

§ 51.66 Surrender of passport and/or Consular Report of Birth Abroad.

The bearer of a passport that is revoked or of a Consular Report of Birth Abroad that is cancelled must surrender it to the Department or its authorized representative upon demand.

■ 11. Revise § 51.70 to read as follows:

§ 51.70 Request for hearing to review certain denials and revocations.

(a) A person whose passport has been denied or revoked under 22 CFR 51.60(b)(1) through (10), 51.60(c), 51.60(d), 51.61(b), 51.62(a)(1), or 51.62(a)(2), or whose Consular Report of Birth Abroad is cancelled under § 51.62(c)(1) or § 51.62(c)(2), may request a hearing to review the basis for the denial, revocation, or cancellation, provided that the Department receives such a request, in writing, from such person or his or her attorney within 60 days of his or her receipt of the notice of the denial, revocation, or cancellation. Failure to timely request a hearing means the denial, revocation, or cancellation is the Department's final action.

(b) The provisions of §§ 51.70 through 51.74 do not apply to any action of the Department denying, restricting, revoking, cancelling or invalidating a passport or Consular Report of Birth Abroad, or in any other way adversely affecting the ability of a person to receive or use a passport or Consular Report of Birth Abroad, for reasons not set forth in § 51.70(a), including, as applicable, those listed at:

(1) Section 51.60(a) (instances where the Department may not issue a passport, except for direct return to the United States);

(2) Section 51.60(f) (failure to provide a social security number, or purposefully providing an incorrect number);

(3) Section 51.60(g) (denial of passport cards to certain convicted sex offenders);

(4) Section 51.61(a) (denial of passports to certain convicted drug traffickers);

(5) Section 51.62(b) (revocation of passports for non-U.S. nationals or where a certificate of citizenship or naturalization has been cancelled);

(6) Section 51.62(c)(3) (cancellation of a Consular Report of Birth Abroad upon the Department's determination that the bearer is not a U.S. national or where a certificate of citizenship has been cancelled);

(7) Section 51.62(d) (revocation of passports issued to certain convicted sex offenders);

(8) Section 51.64 (specially validated passports);

(9) Any other provision not listed at § 51.70(a).

(c) If a timely request for a hearing is made by a person seeking a hearing in accordance with these regulations, the Department will make reasonable efforts to hold the hearing within 90 days of the date the Department receives the request.

(d) Within a reasonable period of time prior to the hearing, the Department will give the person requesting the hearing written notice of the date, time and place of the hearing and copies of the evidence relied on in denying, revoking, or cancelling the passport or Consular Report of Birth Abroad.

(e) The person requesting the hearing may obtain one continuance, not to exceed an additional 90 days, upon written request. The request for a continuance must be received by the Department as soon as practicable and in no case less than five business days prior to the scheduled hearing date. Any further continuances are within the sole discretion of the Department.

■ 12. Revise § 51.71 to read as follows:

§ 51.71 The hearing.

(a) The Department will name a hearing officer, who will generally be a Department employee from the Bureau of Consular Affairs. The hearing officer will make only preliminary findings of fact and submit recommendations based on the record of the hearing, as defined in 22 CFR 51.72, to the Deputy Assistant Secretary for Passport Services, or his or her designee, in the Bureau of Consular Affairs.

(b) The hearing shall take place in Washington, DC or, if the person requesting the hearing is overseas, at the appropriate U.S. diplomatic or consular post. The person requesting the hearing must appear in person or with or through his or her attorney. Failure to appear at the scheduled hearing will constitute an abandonment of the request for a hearing, and the Department's revocation, cancellation or denial will be considered the Department's final action.

(c) Any attorney appearing at a hearing must be admitted to practice in any state of the United States, the District of Columbia, or any territory or possession of the United States, or be admitted to practice before the courts of the country in which the hearing is to be held.

(d) There is no right to subpoena witnesses or to conduct discovery. However, the person requesting the hearing may testify in person, offer evidence in his or her own behalf, present witnesses, and make arguments at the hearing. The person requesting the hearing is responsible for all costs associated with the presentation of his or her case, including the cost of interpreters, who must be certified in accordance with standards established for federal courts under 28 U.S.C. 1827. The Department may present witnesses, offer evidence, and make arguments in its behalf. The Department is responsible for all costs associated with the presentation of its case.

(e) The hearing is informal and permissive. As such, the provisions of 5 U.S.C. 554 *et seq.* do not apply to the hearing. Formal rules of evidence also do not apply; however, the hearing officer may impose reasonable restrictions on relevancy, materiality, and competency of evidence presented. Testimony will be under oath or by affirmation under penalty of perjury. The hearing officer may not consider any information that is not also made available to the person requesting the hearing, the Department, and made a part of the record of the proceeding.

(f) If any witness is unable to appear, the hearing officer may, in his or her discretion, accept an affidavit or sworn deposition testimony of the witness, the cost for which will be the responsibility of the requesting party, subject to such limits as the hearing officer deems appropriate.

(g) The person requesting the hearing and the Department of State may submit written briefs or argument prior to the hearing, but it is not required. The hearing officer will specify the date and schedule for the parties to submit written briefs, should they choose to do so.

(h) The purpose of the hearing is to provide the person requesting the hearing an opportunity to challenge the basis for the Department's decision to deny or revoke the passport, or cancel the Consular Report of Birth Abroad. The burden of production is on the Department, and the Department shall provide the evidence it relied upon in revoking or denying the passport, or cancelling the Consular Report of Birth Abroad, prior to the hearing. The burden of persuasion is on the person requesting the hearing, to prove by a preponderance of the evidence that the Department improperly revoked the passport or denied the passport application, or cancelled the Consular

Report of Birth Abroad, based on the facts and law in effect at the time such action was taken.

■ 13. Revise § 51.72 to read as follows:

§ 51.72 Transcript and record of the hearing.

A qualified reporter, provided by the Department, will make a complete verbatim transcript of the hearing. The person requesting the hearing or his or her attorney may review and purchase a copy of the transcript directly from the reporter. The hearing transcript and all the information and documents received by the hearing officer, whether or not deemed relevant, will constitute the record of the hearing. The hearing officer's preliminary findings and recommendations are deliberative, and shall not be considered part of the record unless adopted by the Deputy Assistant Secretary for Passport Services, or his or her designee.

■ 14. Revise § 51.73 to read as follows:

§ 51.73 Privacy of hearing.

Only the person requesting the hearing, his or her attorney, an interpreter, the hearing officer, the reporter transcribing the hearing, and employees of the Department concerned with the presentation of the case may be present at the hearing. Witnesses may be present only while actually giving testimony or as otherwise directed by the hearing officer.

■ 15. Revise § 51.74 to read as follows:

§ 51.74 Final decision.

After reviewing the record of the hearing and the preliminary findings of fact and recommendations of the hearing officer, and considering legal and policy considerations he or she deems relevant, the Deputy Assistant Secretary for Passport Services, or his or her designee, will decide whether to uphold the denial or revocation of the passport or cancellation of the Consular Report of Birth Abroad. The Department will promptly notify the person requesting the hearing of the decision in writing. If the decision is to uphold the denial, revocation, or cancellation, the notice will contain the reason(s) for the decision. The decision is final and is not subject to further administrative review.

Dated: May 3, 2018.

Carl C. Risch,

Assistant Secretary of State for Consular Affairs, Department of State.

[FR Doc. 2018–09995 Filed 5–10–18; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0234]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone surrounding the area of entry of lava from the Kilauea volcano into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. This action is necessary to protect persons and vessels from the potential hazards associated with molten lava entering the ocean. This regulation prohibits persons and vessels from being in the safety zone during active lava flow reaching the Pacific Ocean on Kilauea volcano's southeast coast unless specifically authorized by the Captain of the Port Honolulu or a designated representative.

DATES: This rule is effective without actual notice May 11, 2018. For purposes of enforcement, actual notice will be used if active lava associated with the Kilauea activity enters into the Pacific Ocean prior to May 11, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0234 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Bannon, Waterways Management Division, Coast Guard; telephone 808–541–4359, email *John.E.Bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BLS Bureau of Labor Statistics
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
FRFA Final regulatory flexibility analysis
HVO Hawaii Volcano Observatory
IRFA Initial regulatory flexibility analysis
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section symbol
RFA Regulatory Flexibility Act
SNPRM Supplemental notice of proposed rulemaking
TFR Temporary final rule
U.S.C. United States Code

II. Background Information and Regulatory History

Molten lava that enters the ocean is potentially hazardous to anyone near it, particularly when lava deltas collapse. A lava delta is new land that forms when lava accumulates above sea level, and extends from the existing base of a sea cliff. Persons and vessels near active lava flow ocean-entry sites face potential hazards, including—

- Plumes of hot, corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs;
- Explosions of debris and eruptions of scalding water from hot rock entering the ocean;
- Sudden lava delta collapses; and
- Waves associated with these explosions and collapses.

Lava began entering the ocean at the Kamokuna lava delta on Kilauea volcano's south coast in July 2016. Lava continued to enter the ocean at the Kamokuna lava delta from July 2016 to mid-November 2017.

Ocean safety concerns began on December 31, 2016, when a large portion of the new lava delta collapsed into the ocean, producing waves and explosions of debris at 19°19′12″ N, 155°02′24″ W near the Kamokuna entry point. Following this collapse, portions of the adjacent sea cliff continued to collapse into the Pacific Ocean, producing localized waves and showers of debris.

In March 2017, a new delta began to form at the Kamokuna ocean-entry point, and from March 2017 to July 2017, several collapses of the lava bench were observed by National Park Service and Hawaiian Volcano Observatory (HVO) staff. Beginning in the middle of November 2017, the lava flow slowed down and subsequently stopped entering the ocean, and as of March 2018, the lava flow remains inactive.

Though the Kamokuna lava delta is not currently active, this region and associated coastline remains hazardous both to visitors on land and to the boating public due to active seismic and lava activity associated with the Kilauea lava flow. According to the HVO, which is part of the U.S. Geological Survey and responsible for monitoring volcanoes and earthquakes in Hawaii, the lava delta remains unstable and resumed ocean lava flow is realistic. Hazards to the public include hot gases, lava, scalding water, unstable vertical sea

cliffs and possible sudden explosions should the lava delta begin to collapse. Additionally, cracks parallel to the sea cliff in the surrounding area indicate that further collapses with little or no warning are possible. Therefore, the safety zone remains relevant. When the safety zone is being enforced, access into the safety zone can still be requested to the Captain of the Port (COTP) Honolulu.

On March 28, 2017, the COTP Honolulu issued a temporary final rule (TFR) under docket number USCG–2017–0172. The TFR established a safety zone to immediately protect persons and vessels from the potential hazards associated with molten lava entering the ocean. The safety zone encompassed all waters extending 300 meters (984 feet) in every direction around all ocean-entry points of lava. The Coast Guard prohibited entry of persons or vessels into the safety zone, unless authorized by the COTP Honolulu, or his designated representative.

The TFR was published in the **Federal Register** (82 FR 16109) on April 3, 2017. A six-month extension of the TFR was published in the **Federal Register** (82 FR 45461) on September 29, 2017, extending the TFR through March 28, 2018. The TFR extension allowed the Coast Guard to analyze the economic impact of the safety zone and provide for additional public comment.

On April 3, 2017, the Coast Guard also published a notice of proposed rulemaking (NPRM) in the **Federal Register** (82 FR 16142), which proposed to make the temporary safety zone a final rule, and invited the public to comment during the comment period. During this comment period, which ended June 2, 2017, we received 67 comments.

On May 8, 2017, we held a public meeting in Hilo, HI, that allowed local citizens and small businesses affected by the TFR to discuss the lava safety concerns, the safety zone impact, and the impact the proposed rule would have on ocean users. Participants were encouraged to submit formal feedback to the rulemaking docket.

On December 20, 2017, the Coast Guard published a supplemental notice of proposed rulemaking (SNPRM) in the **Federal Register** (82 FR 60341). Its purpose was to address additional concerns related to the potential impact of the safety zone on small entities should lava flow resume. Lava flow entering the ocean ended in November, 2017. The SNPRM addressed the past and future concerns, and invited the public to further comment during the comment period, which ended February 20, 2018. During this comment period, we received two comments that were not germane to the rulemaking and only one from the public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed due to recent volcanic activity. Active eruption of lava and gas has recently commenced and continues from Kilauea Volcano. On Friday, May 4, 2018, a magnitude 6.9 earthquake was measured in the region and HVO advises that more should be expected with a larger aftershocks potentially producing rockfalls, localized tsunamis, and associated ash clouds. High levels of lava and volcanic gas including Sulphur Dioxide are being emitted from the fissure vents. In consideration of the events, safety hazards and concerns, the Coast Guard finds that good cause exists for making this regulation effective immediately. This rule is needed to protect personnel and vessels in the navigable waters with the safety zone.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP Honolulu has determined that there are potential hazards associated with the molten lava at the Kamokuna lava delta or future locations associated with the Kilauea lava flow, which pose potential safety concerns for anyone within 300 meters of the ocean-entry point.

The purpose of this rule is to establish a permanent safety zone around the lava flow entry area associated with the Kilauea lava delta entry coastline to mitigate ocean hazards during times when lava is entering the ocean. Additionally, this rule allows the Coast Guard to impose and enforce restrictions on vessels operating near the lava flow that enters the ocean as the Coast Guard determines necessary. This action is necessary to promote safe navigation, and to preserve the safety of life and property. Vessels capable of safely operating inside the safety zone may be authorized to enter by the COTP Honolulu or his designated representative. Vessels approved for transiting within the safety zone during active lava ocean entry are required to adhere to specific conditions set by the COTP Honolulu. Mariners who seek initial authorization to enter the safety zone when there is active lava ocean entry must submit a written request by email or letter. The request must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for operating near the lava ocean-entry points. Once initial authorization is received, a vessel owner or operator only needs to contact COTP Honolulu by phone or radio to request permission to enter the safety zone.

IV. Discussion of Comments, Changes, and the Rule

In response to the NPRM, the Coast Guard received 67 public comments. In addition to both the NPRM and the public meeting held in Hilo, HI, on May 8, 2017, we published a SNPRM to further address economic impacts on small entities potentially affected by the safety zone. The Coast Guard received two public comments on the SNPRM, neither of which were germane to the rulemaking. All public comments and the public meeting summary are available in the docket for this rulemaking where indicated under **ADDRESSES**.

Based on all the comments received, the Coast Guard adopts the rule as proposed in the NPRM and supplemented in the SNPRM as 33 CFR 165.1414 without major change. After review of the SNPRM proposed language, we made a minor edit to paragraph (c) to clarify that this is no longer proposed language. In paragraph (c)(2), we also further clarify that entry into or remaining in this safety zone, when enforced, is prohibited unless authorized by the COTP Honolulu or his designated representative. This clarification is necessary to highlight that when lava is not a threat to mariners, the safety zone is not enforced. Finally, in paragraph (c)(3), we added further clarification that notice for entry into the safety zone is necessary only when the safety zone is enforced.

We received nine comments on the NPRM in support of the proposed rule. One commenter noted that he had taken a lava boat tour and felt that the vessel got too close to the entry point and that he experienced adverse health symptoms from being in the lava plume. Several commenters agreed that the safety zone should be consistent with that of the landside restriction of 300 meters. Other commenters supported the safety zone due to the hazards resulting from the entry of volcanic lava into the ocean.

The Coast Guard received 18 comments regarding the safety zone's size and location. These comments ranged from being in favor of the 300-meter safety zone to being opposed.

Nine opposing views stated that 300 meters is excessively restrictive. One comment from the National Oceanic Atmospheric Administration stated that the Coast Guard should ''provide definitive bounding coordinates for the safety zone, instead of a general statement that the safety zone will encompass all waters extending 300 meters in all directions around the entry point of lava flow into the ocean associated with the lava flow at the Kamokuna lava delta or Kilauea crater.''

We believe that because of the unpredictable and varying nature of the active lava flowing into the ocean at this area, the Coast Guard cannot issue specific geographic coordinates of the safety zone in the final rule, but will note the current entry site and update for future sites. We note, with the concurrence of NOAA's Nautical Data Branch, Marine Chart Division, the position 19°19′08″ N, 155°02′36″ W. These are the coordinates provided for Kamokuna Beach in the U.S. Geological Survey's Geographic Names Information System. Future lava entry locations may vary from the Kamokuna Beach location.

Additionally, because of the varying dangers of the lava entry and fragile bench shelf development, the Coast Guard cannot provide a specific distance at which a vessel can safely operate. However, the COTP Honolulu has permitted vessels to operate within the 300-meter safety zone under certain conditions when the safety zone is actively enforced.

The Coast Guard received one comment from Hawaii Volcanoes National Park supporting a safety zone ''that is flexible to account for whatever location the lava may occur since it is not a static event in time or space,'' and a recommendation ''that the proposed rule apply not just to the Kamokuna ocean-entry point, but any location in the future where lava enters the ocean.''

We agree, and the final rule includes language stating that all locations associated with the Kilauea lava flow entering the Pacific Ocean on the eastern side of the Island of Hawaii, HI, are included under the safety zone.

Sixteen commenters recommended that the Coast Guard reduce the 300-meter radius of the safety zone.

We believe that based on Sector Honolulu's review of the historical observations of delta collapses and ejecta distances from HVO records, a radius of 300 meters remains a safe and reasonable distance for a high-hazard zone for the general boating public. The HVO reports that explosions from delta collapses ''have hurled hot rocks nearly a meter (yard) in size as far as about 250 m (273 yards) inland from the collapsed delta and scattered rock debris onshore over an area the size of several football fields. These explosions also hurl rocks seaward, probably to similar distances.'' [1]

The 300-meter safety zone also mirrors land and air restrictions for lava flow viewing. Furthermore, HVO staff reiterated the need for a 300-meter safety zone at the public meeting held on this rulemaking. Accordingly, the Coast Guard will maintain the safety zone's 300-meter radius, with the option of allowing operators to request authorization to enter the safety zone from the COTP Honolulu.

The Coast Guard received 30 comments in favor of allowing the lava tour-boat owners and operators to enter and operate in the safety zone.

Under this final rule, any vessel owner or operator may submit a written request to the COTP Honolulu, or his designated representative, for authorization to enter the safety zone. Such written requests must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for operating near the lava ocean-entry points. Once initial authorization is received, a vessel owner or operator only needs to contact COTP Honolulu by phone or radio to request permission to enter the safety zone. Prior to the NPRM, the Coast Guard promulgated a TFR for a 300-meter safety zone at the Kamokuna lava delta. Pursuant to the TFR, the COTP Honolulu granted four lava tour-boat owners and operators and one photographer access to operate within the safety zone. If lava begins to flow into the ocean again, these tour operators will be granted renewed permission to enter the safety zone. The Coast Guard received three comments regarding access or exclusive access to the lava flow by Hawaiian natives. This rule is concerned with the safety aspect of access to the lava flow area. Mandating exclusive access to the lava flow is outside the scope of this rulemaking and is outside the Coast Guard's authority. When the safety zone is enforced, this rule provides guidance for requesting permission to enter the safety zone from the COTP Honolulu or his designated representative.

The Coast Guard received one comment regarding the lack of reliable VHF radio communications near the lava flow area, thereby preventing lava tour-boat owners and operators from hailing the Coast Guard via VHF radio.

We are aware of the VHF radio limitations in this area, and are currently researching how to improve radio coverage. The COTP Honolulu and Coast Guard Base Honolulu are attempting to install equipment in the vicinity to enhance communications in this area. In the meantime, vessel owners and operators are encouraged to use alternate means to communicate effectively near the lava flow ocean-entry points. They are also encouraged to contact the Coast Guard in advance of their transits to the lava ocean-entry points and departure in order to facilitate effective communications as well as the timely processing of any written request for authorization to enter the safety zone.

The Coast Guard received four comments regarding general unsafe conditions at the boat ramp where tour operators launch.

Boat ramps and associated safe boating concerns are a state management issue. We have forwarded this comment to the appropriate state office.

One comment proposed the safety zone be stationary and move with the lava shelf, essentially creating a moving safety zone.

Title 33 CFR 165.20 defines a safety zone as a water area to which, for safety purposes, access is limited to authorized persons or vessels. It further states that a safety zone may be stationary and described by fixed limits. We believe that in this situation, the entry point of the lava changes based on flow, and as such, the safety zone would encompass all waters extending 300 meters (984 feet) in all directions around the entry point of lava flow into the ocean. The Coast Guard does not define this as a moving safety zone around a moving object, but rather as a necessary adjustment to a dynamic environmental occurrence, which may have multiple lava entry points.

The Coast Guard also received a comment stating that our certification under 5 U.S.C. 605(b), concerning the economic impact on small entities, was potentially arbitrary as it lacked any factual basis for the certification. An initial regulatory flexibility analysis in accordance with the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, was conducted through an SNPRM, which allowed for public comment. The Coast Guard received no comments on the initial regulatory flexibility analysis (IRFA).

The Coast Guard received two comments regarding Executive Order 13771, Reducing Regulation and

[1] *https://volcanoes.usgs.gov/observatories/hvo/hawaii_ocean_entry.html.*

Controlling Regulatory Costs, which directs a reduction of the promulgation of new regulations. As discussed in the following section, this rule is exempt from this Executive order.

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 discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and 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 ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs''' (April 5, 2017).

We only received one public comment on the SNPRM and it was beyond the scope of this regulation. Therefore, we adopt the preliminary regulatory analysis for the proposed rule as final. A summary of that analysis follows.

This regulatory analysis provides an evaluation of the economic impacts associated with this final rule. The Coast Guard is issuing a final rule to ensure the safety of mariners, lava tour-boat passengers, and the protection of property by establishing a 300-meter safety zone from every direction and all points where lava enters the ocean. In order to mitigate the potential costs of this rule, the Coast Guard has and will continue to issue exemptions to mariners that can demonstrate a level of safety sufficient for the additional hazards present where lava enters the ocean.

In November 2017, lava ceased flowing from Kilauea volcano into the Pacific Ocean. Consequently, the Coast Guard has temporarily stopped enforcing the safety zone. In the final rule, we added regulatory text clarifying that the regulation is only enforced when lava is actively flowing into the ocean. This change will not impose any economic costs on any mariners or members of the public because it does not create any requirements. Other than changes clarifying that the safety zone is enforced as long as lava flows into the ocean, we made no further changes to the regulatory text.

Table 1 provides a summary of the affected population, costs, and benefits of this rule.

TABLE 1—SUMMARY OF IMPACTS OF THE FINAL RULE

Category	Summary
Affected population	4 tour boat operators.
Costs to industry	593.88.
Costs to government	378.00.
Total costs	971.88.
Unquantified benefits	Protection from unsafe operations where vessels enter the safety zone.

Affected Population

This final rule makes permanent the existing TFR safety zone for the navigable waters surrounding the entry of lava from Kilauea volcano into the Pacific Ocean. The TFR restricted access to those vessels that contacted the COTP Honolulu and requested permission to enter the temporary safety zone.

Therefore, this rule affects any vessel that would normally travel within 300 meters of points where lava reaches the ocean. Due to the hazards and relative remoteness of the area, the Coast Guard is not aware of any vessel operations within 300 meters of where lava enters the ocean other than those conducted by lava tour-boat owners and operators. While the TFR was still in effect, the COTP Honolulu granted four lava tour-boat owners and operators and one photographer authorization to enter the safety zone under certain conditions. When lava reenters the safety zone, these four tour operators will constitute the affected population because the Coast Guard does not believe other entities are likely to operate near the safety zone.

Costs

Under the TFR, published concurrently with the NPRM on April 3, 2017, vessel owners and operators were required to prepare and submit a written request to the COTP Honolulu to enter the safety zone. Because the requirements of this final rule are consistent with the requirements in the TFR, we are presenting the costs associated with the TFR in this final rule. Tour operators that previously applied will be grandfathered in and permitted to operate in the safety zone when the lava flow returns in the future. Additional operators that wish to enter the safety zone will need to submit written requests to the COTP Honolulu. The Coast Guard is not aware of any additional individuals that are likely to request access to enter the safety zone in the future.

The written request requirement was contained in the previous TFR and each lava tour-boat owner and operator seeking authorization to enter the safety zone complied. Based on discussions with COTP Honolulu personnel, we estimated it takes about four hours for a vessel owner or operator to submit a written request to enter the safety zone. This includes the time it would take lava tour-boat owners and operators to respond to questions from the COTP concerning the written request. Lava tour-boat owners and operators would only be required to make a written request once rather than for each voyage. The Coast Guard is not aware that any voyages were terminated due to a lack of authorization to enter the safety zone during the period operators requested to enter.

We obtained the mean hourly wage rate for a captain of a lava tour-boat from the May 2016 Bureau of Labor Statistics (BLS) Occupational Employment Statistics National Occupational Employment and Wage Estimates. Based on BLS data, the mean hourly wage rate for captains, mates, and pilots of water vessels with the North American Industry Classification System (NAICS) occupational code of 53–5021 in the ''Scenic and Sightseeing Transportation, Water'' industry is $24.42.[2] Because this is an unloaded

[2] Captains, mates, and pilots may work in numerous industries. We use the BLS industry-specific mean hourly wage rate for the affected tour boat operators from the ''Scenic and Sightseeing Transportation, Water'' industry. See *http://www.bls.gov/oes/2016/may/oes535021.htm.*

hourly wage rate, we added a load factor of 1.52 derived from the May 2016 BLS ''Employer Cost for Compensation'' database to obtain a loaded hourly wage rate of $37.12.[3] Using this information, we estimated the one-time initial cost for an owner or operator to prepare a written request and respond to comments from the Coast Guard to be $148.47.[4] Therefore, we estimated the total cost of the proposed rule on tour operators to be $593.88.[5]

Since all four lava tour-boat owners and operators were each granted permission to enter the safety zone through an initial written request, the only cost to these lava tour-boat owners and operators was the cost of the initial request. Each owner or operator would also be required to notify the COTP Honolulu by phone during the normal course of their duties before entering the safety zone. We did not estimate a cost for the call because the equipment already exists onboard each vessel and the time cost is minimal. The total costs to industry are therefore $593.88.

Government costs to implement this rule include the one-time cost of reviewing the written requests. We did not estimate a cost for the time to receive a call from an owner or operator when entering the safety zone because the COTP Honolulu conducts this review in the normal course of duties and the time requirements are minimal. To process the written requests, we estimated one non-commissioned officer with a rank of E–7, and three officers with ranks of O–4, O–5, and O–6 would take about one hour each to review the written request. Based on the labor rates listed in Table 2,[6] we estimated the total cost of the rule to the Federal government to be $378.00.

TABLE 2—TOTAL GOVERNMENT COSTS OF THE TEMPORARY FINAL RULE

Rank	Wage rate	Labor hours	Total cost
E–7	$65	1	$65
O–4	92	1	92
O–5	104	1	104
O–6	117	1	117
Total		4	378

We estimated the total cost of this rule to lava tour-boat owners and operators and to the Federal government to be $971.88.[7]

Benefits

Lava flow that enters the ocean is potentially hazardous and presents a danger to vessels navigating within close proximity of where the flow enters the ocean, particularly when lava deltas collapse. These hazards include, but are not limited to, plumes of hot, corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs; explosions of debris and eruptions of scalding water from hot rock entering the ocean; sudden lava delta collapses; and waves associated with these explosions and collapses. The primary benefit of this rule is to promote safe navigation, and preserve the safety of life and property by ensuring that vessel operators are prepared for the greater risks present where lava enters the ocean. If vessel operators wish to transit through the safety zone they will be required to first contact the COTP Honolulu for permission with an explanation of how their safety and lifesaving equipment is adequate to meet the greater risks present.

B. Impact on Small Entities

The Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 94 Stat. 1164 (codified at 5 U.S.C. 601–612)) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.''[8]

When an agency promulgates a final rule under section 553 of the Administrative Procedure Act Administrative Procedure Act, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency must prepare a FRFA or have the head of the agency certify pursuant to RFA section 605(b) that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The RA prescribes the content of the FRFA, which we discuss below.

In accordance with the RFA, the Coast Guard prepared this FRFA that examines the impacts of the final rule on small entities. A small entity may be:

- A small independent business, defined as independently owned and operated, is organized for profit, and is not dominant in its field per the Small Business Act (15 U.S.C. 632);
- A small not-for-profit organization (any not-for-profit enterprise which is independently owned and operated and is not dominant in its field); or
- A small governmental jurisdiction (locality with fewer than 50,000 people).

This FRFA addresses the following:

(1) A statement of the need for, and objectives of, the rule;

(2) A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;

(3) The response of the agency to any comments filed by the Chief Counsel for

[3] A loaded wage rate is what a company pays per hour to employ a person, not an hourly wage. The loaded wage rate includes the cost of benefits (health insurance, vacation, etc.). The load factor for wages is calculated by dividing total compensation by wages and salaries. For this analysis, we used BLS Employer cost of employee compensation/ Transportation and Materials Moving Occupations, Private Industry Report (Series IDs, CMU2010000520000D and CMU2020000520000D) for all workers using the multi-screen data search. Using 2016 Q4 data for the cost of compensation per hour worked, we divided the total compensation amount of $28.15 by the wage and salary amount of $18.53 to obtain the load factor of 1.52, rounded. See the following websites: *https://beta.bls.gov/dataQuery/find?fq=survey:[oe]&s=popularity:D* and *https://data.bls.gov/cgi-bin/dsrv?cm*. Multiplying 1.52 by $24.42, we obtained a loaded hourly wage rate of $37.12, rounded.

[4] $37.12 × 4 hours.

[5] $148.47 × 4 tour operators.

[6] We obtained the hourly wage rates for government personnel from Enclosure (2) of Commandant Instruction 7310.1R (29 March 2017) using the ''In Government Rate.''

[7] $593.88 in costs to industry + $378 in costs to the Coast Guard.

[8] *See* RFA section 2(b), 94 Stat. 1164, 1165.

Advocacy of the SBA in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;

(5) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Below is a discussion of FRFA analysis by each of these six elements:

(1) A statement of the need for, and objectives of, the rule.

Lava entered the ocean at Kamokuna on Kilauea volcano's south coast between July of 2016 and November of 2017. Lava will continue to enter the ocean again in the foreseeable future. When lava enters the ocean, potential hazards emerge such as: Plumes of corrosive seawater can irritate the skin, eyes, and lungs; explosions of debris and scalding water can injure passengers; collapses of lava deltas can cause large waves potentially capsizing vessels. Unless vessels have the proper equipment and their operators take sufficient precautions, passengers and operators face significant hazards to their lives as well as property. This rule is necessary to promote navigational safety, provide for the safety of life and property, and facilitate and accommodate the reasonable demands of commerce related to tourism surrounding the lava ocean-entry points.

This safety zone will ensure the safety of mariners, lava tour-boat passengers, and the protection of property by establishing a 300-meter safety zone from every direction and all points where lava enters the ocean.

(2) A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments.

We only received one public comment which was beyond the scope of the rule; therefore, we made no changes to the proposed rule as a result of public comments.

(3) The response of the agency to any comments filed by the Chief Counsel for Advocacy of the SBA in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments.

We received no comments the Chief Counsel for Advocacy of the SBA.

(4) A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available.

This rule affects any vessel that would normally travel within 300 meters of points where lava reaches the ocean. Due to the hazards and relative remoteness of such an area, the Coast Guard believes only lava tour operators would regularly operate within 300 meters of a point where lava enters the ocean. Based on the Coast Guard's understanding, there are four known lava tour-boat operators and one photographer who regularly come within 300 meters of the Kilauea lava flow.

Of the four lava tour-boat owners and operators who would transit within the safety zone, we could not find publically available information such as annual revenues and number of employees for three of the four operators. We assumed these three operators qualified as small entities. We found revenue information on the fourth lava tour-boat owner. Using Manta, a publicly available database for businesses in the United States, we found this lava tour-boat owner to have annual revenues of $220,000 and a NAICS code of 561520, ''Tour Operators.'' [9] This NAICS code has a size threshold of $20.5 million for annual revenues, based on the Small Business Administration's table of size standards.[10] Based on this information, this lava tour-boat operator also qualified as a small entity.

Based on discussions with COTP Honolulu personnel and using the wage rates and labor hour estimates as established above, we estimated it would take about four hours for an owner or operator of a lava tour-boat to prepare a written request to enter the safety zone. This includes the time it would take lava tour-boat owners or operators to respond to questions from the COTP concerning the written request. Lava tour-boat owners and operators would be only required to make this request once rather than for every voyage.

Above we obtained a loaded hourly wage rate of $37.12 for captains, mates, and pilots of water vessels. We estimated the one-time initial cost for an owner or operator to prepare a written request and respond to comments from the Coast Guard to be about $148.47. We estimated the total cost of the rule on tour operators to be about $593.88.

As mentioned above, we only found revenue data on one of the four operators. Therefore, we estimate the initial revenue impact of this rule on this lava tour-boat owner to be about $148.47, which is 0.07% of the company's revenue. There are no annual revenue impacts because the written request needs to be made once, after which each lava tour-boat operator would notify the COTP Honolulu by phone to obtain permission to enter the safety on a given day.

(5) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

(6) A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

The Coast Guard considered the alternative of not establishing a safety zone. However, without a safety zone, vessel owners and operators would be unprepared for the greater hazards that are present near the Kilauea lava flow ocean-entry point. These vessel owners and operators and passengers could suffer grave injury or in the extreme case death, in addition to damage to or loss of property, if adequate protection is not provided. Therefore, the Coast Guard decided a safety zone was necessary to promote navigational

[9] Accessed July 17, 2017 from *https://www.manta.com/c/mb05066/kalapana-cultural-tours-inc.*

[10] *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

safety, provide for the safety of life and property, and to accommodate and facilitate the reasonable demands of commerce relating to tourism surrounding the lava entry points. No cost to industry or government would be associated with this alternative; nevertheless, we rejected this alternative because it would not ensure that the boating public would operate within a safe distance of where the lava flow enters the ocean.

Alternatively, the Coast Guard could have instituted a safety zone without permitting any entry into the safety zone. This alternative would have imposed substantial cost onto the four small entity tour operators. As a result, the Coast Guard did not select this alternative.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.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 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 establishing a safety zone that would prohibit persons and vessels from entry into the 300-meter (984 feet) safety zone extending in all directions around the entry of lava flow into the Pacific Ocean. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1, of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a specified environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.1414 to read as follows:

§ 165.1414 Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI.

(a) *Location.* The safety zone area is located within the Captain of the Port (COTP) Honolulu Zone (See 33 CFR 3.70–10) and encompasses all primary areas from the surface of the water to the ocean floor at the Kilauea active lava flow entry into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. The entry point of the lava may change based on flow. The safety zone encompasses all waters extending 300 meters (984 feet) in all directions around entry points of lava flow into the ocean associated with the Kilauea active lava flow.

(b) *Definitions.* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP Honolulu to assist in enforcing the safety zone described in paragraph (a) of this section.

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to this safety zone.

(1) All persons and vessels are required to comply with the general regulations governing safety zones found in this part.

(2) Entry into or remaining in this safety zone when enforced is prohibited unless authorized by the COTP Honolulu, or his designated representative.

(3) Persons or vessels desiring to enter the safety zone identified in paragraph (a) of this section should submit a written request to the COTP Honolulu before initial entry into the safety zone when the Coast Guard notifies the public of safety zone enforcement. The request must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for

operating near the lava ocean-entry points. Persons authorized initial entry may, thereafter, contact the COTP Honolulu through his designated representatives at the Command Center via telephone: 808–842–2600 and 808–842–2601; fax: 808–842–2642; or on VHF channel 16 (156.8 Mhz) to request permission to transit the safety zone.

(4) If permission is granted, all persons and vessels must comply with the instructions of the COTP Honolulu, or his designated representative, and proceed at the minimum speed necessary to maintain a safe course while transiting through or in the safety zone as well as maintain a safe distance from the lava hazards.

(5) The COTP Honolulu will provide notice of enforcement of the safety zone described in this section by verbal radio broadcasts and written notice to mariners. The Coast Guard vessels enforcing this section can be contacted on marine band radio VHF–FM channel 16 (156.8 MHZ). The COTP Honolulu and his or her designated representatives can be contacted at telephone number listed in paragraph (c)(3) of this section.

(6) The Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: May 7, 2018.

M.C. Long,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 2018–10049 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0387]

RIN 1625–AA00

Safety Zone; Barge PFE–LB444, San Joaquin River, Blackslough Landing, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters of the San Joaquin River due to an unstable, partially submerged barge with hull number PFE–LB444. The temporary safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the barge and associated recovery efforts. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port San Francisco.

DATES: This rule is effective without actual notice from May 11, 2018 until May 31, 2018. For the purposes of enforcement, actual notice will be used from May 7, 2018 until May 11, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0387 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Emily K. Rowan, U.S. Coast Guard Sector San Francisco; telephone 415–399–7443, email *emily.k.rowan@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

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 of the emergent nature of the situation. Notice and comment procedures would be impracticable because immediate action is needed protect personnel, vessels, and the marine environment from potential hazards associated with the barge and associated recovery efforts.

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**. For the reasons stated above, delaying the effective date of the rule would be impracticable.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones. The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the barge and associated recovery efforts will be a safety concern for anyone within a 90-yard radius of the barge. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone.

IV. Discussion of the Rule

This rule establishes a temporary safety zone from May 7, 2018 through May 31, 2018. The safety zone will cover all navigable waters within 90 yards of the unstable barge and associated recovery efforts centered in approximate position 37° 59′ 41.88″ N, 121° 25′ 8.88″ W (NAD 83). The effect of the temporary safety zone is intended to protect personnel, vessels, and the marine environment in these navigable waters from potential hazards associated with the barge and associated recovery efforts. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited duration and narrowly tailored geographic area of the safety zone. Although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via

public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

B. Impact on Small Entities

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

This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the safety zone at times when this zone is being enforced. This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) this rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of these safety zones via Broadcast Notice to Mariners.

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 Management Directive 023–01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves safety zones of limited size and duration. It is categorically excluded from further review under Categorical Exclusion L60(d) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination will be prepared and submitted after issuance or publication in accordance with DHS Instruction Manual 023–01–001–01, Rev. 01.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–924 to read as follows:

§ 165.T11–924 Safety Zone; Barge PFE–LB444, San Joaquin River, Blackslough Landing, CA.

(a) *Location.* The following area is a safety zone: all navigable waters within 90 yards of the unstable, partially submerged barge and associated recovery efforts centered in approximate position 37° 59′ 41.88″ N, 121° 25′ 8.88″ W (NAD 83).

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from May 7, 2018 through May 31, 2018. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which these zones will be enforced via Broadcast Notice to Mariners in accordance with § 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer

on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

(d) *Regulations.* (1) Under the general regulations in subpart C of this part, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or the COTP's designated representative.

(2) The safety zone is closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: May 7, 2018.

Anthony J. Ceraolo,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco.

[FR Doc. 2018–10044 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0361]

Safety Zone; Brandon Road Lock and Dam to Lake Michigan Including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, and Calumet-Saganashkee Channel, Chicago, IL

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel on all waters of the Main Branch of the Chicago River between the Wells Street Bridge and the Wabash Street Bridge. This action is necessary to protect mariners from the hazards associated with the hazards of a bridge based fireworks display.

DATES: The regulations in 33 CFR 165.930 will be enforced from 7:45 p.m. to 8:40 p.m. on May 18, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LT John Ramos, Waterways Management Division, Marine Safety Unit Chicago, telephone 630–986–2155, email address *D09-DG-MSUChicago-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce a segment of the Safety Zone: Brandon Road Lock and Dam to Lake Michigan including Des Plaines River, Chicago Sanitary and Ship Canal, Chicago River, Calumet-Saganashkee Channel, Chicago, IL, listed in 33 CFR 165.930. Specifically, the Coast Guard will enforce this safety zone on all waters of the Main Branch of the Chicago River between the Wells Street Bridge, mile marker 325.8 and the Wabash Avenue Bridge, mile marker 326.2. Enforcement will occur from 7:45 p.m. to 8:40 p.m. on May 18, 2018. During the enforcement period, no vessel may transit this regulated area without approval from the Captain of the Port Lake Michigan or a designated representative. Vessels and persons granted permission to enter the safety zone shall obey all lawful orders or directions of the Captain of the Port Lake Michigan, or his or her on-scene representative.

This notice of enforcement is issued under the authority of 33 CFR 165.930 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Captain of the Port Lake Michigan will also provide notice through other means, which will include Broadcast Notice to Mariners and Local Notice to Mariners. Additionally, the Captain of the Port Lake Michigan may notify representatives from the maritime industry through telephonic notifications, email notifications, or by direct communication from on scene patrol commanders. If the Captain of the Port or a designated representative determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area. The Captain of the Port Lake Michigan or a designated on-scene representative may be contacted via Channel 16, VHF–FM or at (414) 747–7182.

Dated: April 20, 2018.

Thomas J. Stuhlreyer,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2018–10102 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0337]

Recurring Safety Zone; Corpus Christi Hooks Baseball Team/Friday Night Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce safety zones for the Corpus Christi Hooks Baseball Team/Friday Night Fireworks on odd week Fridays from May 11, 2018 through August 24, 2018, to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Eighth Coast Guard District identifies the regulated area for this event in Corpus Christi, TX. During the enforcement periods, entry into these zones is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative.

DATES: The regulations in 33 CFR 165.801, Table 4, Line 13 will be enforced from 8 p.m. through 11:59 p.m., each day on May 11, May 25, June 8, June 22, July 6, July 20, August 10, and August 24, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Petty Officer Kevin Kyles, Waterways Management Division, U.S. Coast Guard; telephone 361–939–5125, email *Kevin.L.Kyles@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce safety zones in 33 CFR 165.801, Table 4, Line 13, for the Corpus Christi Hooks Baseball Team/Friday Night Fireworks regulated area from 8 p.m. through 11:59 p.m. on May 11, May 25, June 8, June 22, July 6, July 20, August 10, and August 24, 2018. This action is being taken to provide for the safety of life on navigable waterways during this recurring event. Our regulation for marine events within the Eighth Coast Guard District, § 165.801, specifies the location of the regulated area for the Corpus Christi Hooks

Baseball Team/Friday Night Fireworks, which encompasses portions of the Corpus Christi Ship Channel. As reflected in §§ 165.23 and 165.801(a), entry into this zone is prohibited unless authorized by the Captain of the Port Sector Corpus Christi (COTP) or a designated representative. Persons or vessels desiring to enter the zones must request permission from the COTP or a designated representative. They can be reached on VHF FM channel 16 or by telephone at (361) 939–0450. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. Designated representatives include commissioned, warrant, and petty officers of the U.S. Coast Guard.

In addition to this notice of enforcement in the **Federal Register**, the COTP or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), Marine Safety Information Broadcasts (MSIBs), and/or through other means of public notice as appropriate at least 24 hours in advance of each enforcement.

Dated: April 27, 2018.

R.A. Hahn,

Captain, U.S. Coast Guard, Captain of the Port Sector Corpus Christi.

[FR Doc. 2018–10043 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0290]

RIN 1625–AA00

Safety Zone; Cocos Lagoon, Merizo, GU

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for navigable waters within Cocos Lagoon. This safety zone will encompass the designated swim course for the Cocos Crossing swim event in the waters of Cocos Lagoon, Merizo, Guam. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats, and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into the safety zone is prohibited unless authorized by the Captain of the Port Guam (COTP).

DATES: This rule is effective from 7 a.m. to 1 p.m. on May 27, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0290 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 Chief Petty Officer Todd Wheeler, Sector Guam, U.S. Coast Guard; telephone (671) 355–4866, Email *WWMGuam@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

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 doing so would be impracticable and contrary to public interest. The specific date and time for the event was not set with sufficient time to publish and request public comment on the establishment of a safety zone. Thus, delaying the effective date of this rule to allow for a comment period to run would be impracticable because it would inhibit the Coast Guard's ability to protect participants from hazards from vessel traffic.

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**. Due to the date of notification for the event and potential danger to the swim participants, delaying the effective period of this safety zone would be contrary to public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with vessel traffic in the area of the Cocos Crossing swim event on May 27, 2018 will be a safety concern for participants and that all vessels are to keep a 100-yard radius from event participants and support vessels. The purpose of this rule is to ensure the safety of the participants and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of the Rule

This rule establishes a safety zone for Cocos Crossing swim event in the waters of Cocos Lagoon, Merizo, Guam. This event is scheduled to take place from 7 a.m. to 1 p.m. on May 27, 2018. This safety zone is necessary to protect all persons and vessels participating in this marine event from potential safety hazards associated with vessel traffic in the area. Race participants, chase boats and organizers of the event will be exempt from the safety zone. Entry of persons or vessels into this safety zone is prohibited unless authorized by the COTP.

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 the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safety transit around this safety zone which will impact a small designated area of the Cocos Lagoon for 6 hours. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine

channel 16 about the zone and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 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 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule puts in place a safety zone lasting for 6 hours that will prohibit entry within 100-yards of swim participants. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T14–0290 to read as follows:

§ 165.T14–0290 Safety Zone; Cocos Lagoon, Merizo, GU.

(a) *Location.* The following area, within the Guam Captain of the Port (COTP) Zone (See 33 CFR 3.70–15) is a safety zone: All navigable waters within a 100-yard radius of race participants in Merizo and Cocos Lagoon. Race participants, chase boats and organizers of the event will be exempt from the safety zone.

(b) *Effective dates.* This rule is effective from 7 a.m. through 1 p.m. on May 27, 2018.

(c) *Enforcement.* Any Coast Guard commissioned, warrant, or petty officer, and any other COTP representative permitted by law, may enforce this temporary safety zone.

(d) *Waiver.* The COTP may waive any of the requirements of this rule for any person, vessel, or class of vessel upon finding that application of the safety zone is unnecessary or impractical for the purpose of maritime security.

(e) *Penalties.* Vessels or persons violating this rule are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: April 20, 2018.

Christopher M. Chase,

Captain, U.S. Coast Guard, Captain of the Port, Guam.

[FR Doc. 2018–10101 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2018–0065]

RIN 1625–AA00

Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending and updating its safety zones regulations for annual events that take place in the Coast Guard Sector Ohio Valley area. This action is necessary to update the current list of recurring safety zones with revisions, additional events, and removal of events that no longer take place in Sector Ohio Valley. This regulation restricts vessel traffic from the safety zones during the events unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective May 11, 2018.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2018–0065 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 Joshua Herriott, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779–5343, email *Joshua.R.Herriott@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
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) is amending 33 CFR 165.801 to update the table of annual fireworks displays and other marine-related events in Coast Guard Sector Ohio Valley. These events include air shows, fireworks displays, and other marine related events requiring a limited access area restricting vessel traffic for safety purposes.

On April 3, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zones; Coast Guard Sector Ohio Valley Annual and Recurring Safety Zones Update (83 FR 14226). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to those recurring safety zones. During the comment period that ended on April 18, 2018, we received eight comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public interest because immediate action is necessary to respond to the potential safety hazards associated with these marine events.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. Based on the nature of these marine events, large numbers of participants and spectators, and event locations, the COTP has determined that the events listed in this rule could pose a risk to participants or waterways users if the normal vessel traffic were to interfere with the events. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the regulated area. This purpose of this rule is to ensure the safety of all waterway users, including event participants and spectators, during the scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received eight comments on our NPRM published on April 3, 2018. Of the eight comments we received, one was unrelated to this rulemaking and another was a duplicate. Of the six substantive comments, one commenter was in favor of the rule, two were against the rule, and the other three expressed confusion as to the times, locations, effects, alternative routes, and the purpose of the safety zones.

Of the two commenters not in favor of this rule, one stated disagreement with regulatory action generally and one stated that local authorities should oversee inland waterways. These comments are outside of the scope of this final rule.

Two commenters expressed confusion over the events' times and locations. This rule contains two tables. The first table adds 23 new safety zones. The second table amends 31 existing safety zones. Each table contains dates and locations for each event. The Coast Guard will issue a notice of enforcement for each event, which will contain specific times of enforcement of each safety zone. In addition, the Captain of the Port or a designated representative will inform the public through broadcast notices to mariners of the enforcement period for the particular safety zone as well as any changes in the planned schedule. Another commenter expressed confusion over the safety zones' effects and alternative routes. The effects on environment, Indian tribes, and small entities are discussed in the preamble of the rule. In addition, the Coast Guard sought public input as to the same as well as the effects on the protest activities. As to the alternative routes, the rule, § 165.801(d), allows persons and vessels desiring to enter into or passage through the zone to request permission to do so from the Captain of the Port or a designated representative. Finally, one other commenter expressed confusion as to the purpose of the rule and suggested that we include that it is to ensure the safety of event locations and event participants. The Coast Guard is vested with jurisdiction over the navigable waters of the United States and any land structures or shore areas immediately adjacent to such waters. It does not have the authority over land areas not immediately adjacent to the navigable waters on which the events will occur. As such, we cannot make the requested change. As to the protection of the event participants, the rule does state that the safety zones are necessary for the protection of the event participants. However, the sentence stating the purpose of the rule inadvertently omitted that its purpose is to also ensure the safety of the event participants. We have amended the sentence to reflect the purpose.

There are no changes in the regulatory text of this rule from the proposed rule on the NPRM.

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 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated as a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zones. These safety zones are limited in size and duration, and are usually positioned away from high vessel traffic areas. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zones, and the rule would allow vessels to seek permission to enter the zones.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section IV.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. 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 Order13132.

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.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 this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. In § 165.801, revise Table 1 to read as follows:

§ 165.801 Annual fireworks displays and other events in the Eighth Coast Guard District recurring safety zones.

* * * * *

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
1. Multiple days—April through November.	Pittsburgh Pirates/Pittsburgh Pirates Fireworks.	Pittsburgh, PA	Allegheny River, Mile 0.2–0.9 (Pennsylvania).
2. Multiple days—April through November.	Cincinnati Reds/Cincinnati Reds Season Fireworks.	Cincinnati, OH	Ohio River, Mile 470.1–470.4; extending 500 ft. from the State of Ohio shoreline (Ohio).
3. 2 days—Third Friday and Saturday in April.	Thunder Over Louisville/Thunder Over Louisville.	Louisville, KY	Ohio River, Mile 601.0–607.0 (Kentucky).
4. Last Sunday in May	Friends of Ironton	Ironton, OH	Ohio River, Mile 326.7–327.7 (Ohio).
5. 1 day—A Saturday in July	Paducah Parks and Recreation Department/Cross River Swim.	Paducah, KY	Ohio River, Mile 934.0–936.0 (Kentucky).
6. 1 day—First or second weekend in June.	Bellaire All-American Days	Bellaire, OH	Ohio River, Mile 93.5–94.5 (Ohio).
7. 2 days—Second weekend of June.	Rice's Landing Riverfest	Rices Landing, PA	Monongahela River, Mile 68.0–68.8 (Pennsylvania).
8. 1 day—One weekend in June	West Virginia Symphony Orchestra/Symphony Sunday.	Charleston, WV	Kanawha River, Mile 59.5–60.5 (West Virginia).
9. 1 day—Saturday before 4th of July.	Riverfest/Riverfest Inc.	Nitro, WV	Kanawha River, Mile 43.1–44.2 (West Virginia).
10. 1 day—First week or weekend in July.	Greenup City	Greenup, KY	Ohio River, Mile 335.2–336.2 (Kentucky).
11.1 day— First week or weekend in July.	Middleport Community Association.	Middleport, OH	Ohio River, Mile 251.5–252.5 (Ohio).
12. 1 day—First week or weekend in July.	People for the Point Party in the Park.	South Point, OH	Ohio River, Mile 317–318 (Ohio).
13. 1 day—Last weekend in June or first weekend in July.	Riverview Park Independence Festival.	Louisville, KY	Ohio River, Mile 617.5–620.5 (Kentucky).
14. 1 day—Third or fourth week in July.	Upper Ohio Valley Italian Heritage Festival/Upper Ohio Valley Italian Heritage Festival Fireworks.	Wheeling, WV	Ohio River, Mile 90.0–90.5 (West Virginia).
15. 1 day—4th or 5th of July	City of Cape Girardeau July 4th Fireworks Show on the River.	Cape Girardeau, MO	Upper Mississippi River, Mile 50.0–52.0.
16. 1 day—Third or fourth of July	Harrah's Casino/Metropolis Fireworks.	Metropolis, IL	Ohio River, Mile 942.0–945.0 (Illinois).
17. 1 day—During the first week of July.	Louisville Bats Baseball Club/Louisville Bats Firework Show.	Louisville, KY	Ohio River, Mile 602.0–605.0 (Kentucky).
18. 1 day—During the first week of July.	Waterfront Independence Festival/Louisville Orchestra Waterfront 4th.	Louisville, KY	Ohio River, Mile 602.0–605.0 (Kentucky).
19. 1 day—During the first week of July.	Celebration of the American Spirit Fireworks/All American 4th of July.	Owensboro, KY	Ohio River, Mile 754.0–760.0 (Kentucky).
20. 1 day—During the first week of July.	Riverfront Independence Festival Fireworks.	New Albany, IN	Ohio River, Mile 606.5–609.6 (Indiana).
21. 1 day—July 4th	Shoals Radio Group/Spirit of Freedom Fireworks.	Florence, AL	Tennessee River, Mile 254.5–257.4 (Alabama).
22. 1 day—Saturday before July 4th.	Town of Cumberland City/Lighting up the Cumberlands.	Cumberland City, TN	Cumberland River, Mile 103.0–105.5 (Tennessee).
23. 1 day—July 4th	City of Knoxville/Knoxville Festival on the 4th.	Knoxville, TN	Tennessee River, Mile 646.3–648.7 (Tennessee).
24. 1 day—July 4th	Nashville NCVC/Independence Celebration.	Nashville, TN	Cumberland River, Mile 189.7–192.3 (Tennessee).
25. 1 day—Saturday before July 4th, or Saturday after July 4th.	Grand Harbor Marina/Grand Harbor Marina July 4th Celebration.	Counce, TN	Tennessee-Tombigbee Waterway, Mile 448.5–451.0 (Tennessee).
26. 1 day—One of the first two weekends in July.	City of Bellevue, KY/Bellevue Beach Park Concert Fireworks.	Bellevue, KY	Ohio River, Mile 468.2–469.2 (Kentucky and Ohio).
27. 2 days—Sunday before Labor Day and Labor Day.	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest.	Cincinnati, OH	Ohio River, Mile 469.2–470.5 (Kentucky and Ohio) and Licking River Mile 0.0–3.0 (Kentucky).
28. 1 day—July 4th	Summer Motions Inc./Summer Motion.	Ashland, KY	Ohio River, Mile 322.1–323.1 (Kentucky).
29. 1 day—Last weekend in June or First weekend in July.	City of Point Pleasant/Point Pleasant Sternwheel Fireworks.	Point Pleasant, WV	Ohio River, Mile 265.2–266.2, Kanawha River Mile 0.0–0.5 (West Virginia).
30. 1 day—First week or weekend in July.	City of Charleston/City of Charleston Independence Day Celebration.	Charleston, WV	Kanawha River, Mile 58.1–59.1 (West Virginia).
31. 1 day—First week or weekend in July.	Portsmouth River Days	Portsmouth, OH	Ohio River, Mile 355.5–356.5 (Ohio).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
32. 1 day—Second Saturday in August.	Guyasuta Days Festival/Borough of Sharpsburg.	Pittsburgh, PA	Allegheny River, Mile 005.5–006.0 (Pennsylvania).
33. 1 day—Second or third week of August.	Pittsburgh Foundation/Bob O'Connor Cookie Cruise.	Pittsburgh, PA	Ohio River, Mile 0.0–0.5 (Pennsylvania).
34. 1 day—Second full week of August.	PA FOB Fireworks Display	Pittsburgh, PA	Allegheny River, Mile 0.8–1.0 (Pennsylvania).
35. 1 day—Third week of August	Beaver River Regatta Fireworks	Beaver, PA	Ohio River, Mile 25.2–25.8 (Pennsylvania).
36. 1 day—December 31	Pittsburgh Cultural Trust/ Highmark First Night Pittsburgh.	Pittsburgh, PA	Allegheny River Mile, 0.5–1.0 (Pennsylvania).
37. 1 day—Friday before Thanksgiving.	Pittsburgh Downtown Partnership/ Light Up Night.	Pittsburgh, PA	Allegheny River, Mile 0.0–1.0 (Pennsylvania).
38. Multiple days—April through November.	Pittsburgh Riverhounds/ Riverhounds Fireworks.	Pittsburgh, PA	Monongahela River, Mile 0.22–0.77 (Pennsylvania).
39. 3 days—One of the last three weekends in June.	Hadi Shrine/Evansville Freedom Festival Air Show.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
40. 1 day—Second or third Saturday in June, the last day of the Riverbend Festival.	Friends of the Festival, Inc./ Riverbend Festival Fireworks.	Chattanooga, TN	Tennessee River, Mile 462.7–465.2 (Tennessee).
41. 2 days—Second Friday and Saturday in June.	City of Newport, KY/Italianfest	Newport, KY	Ohio River, Miles 468.6–471.0 (Kentucky and Ohio).
42. 1 day—Last weekend in June or first weekend in July.	City of Aurora/Aurora Firecracker Festival.	Aurora, IN	Ohio River Mile, 496.7; 1400 ft. radius from the Consolidated Grain Dock located along the State of Indiana shoreline at (Indiana and Kentucky).
43. 1 day—second weekend in June.	City of St. Albans/St. Albans Town Fair.	St. Albans, WV	Kanawha River, Mile 46.3–47.3 (West Virginia).
44. 1 day—Last week of June or first week of July.	PUSH Beaver County/Beaver County Boom.	Beaver, PA	Ohio River, Mile 25.2–25.6 (Pennsylvania).
45. 1 day—4th of July (Rain date—July 5th).	Monongahela Area Chamber of Commerce/Monongahela 4th of July Celebration.	Monongahela, PA	Monongahela River, Mile 032.0–033.0 (Pennsylvania).
46. 1 day—Saturday Third or Fourth full week of July (Rain date—following Sunday).	Oakmont Yacht Club/Oakmont Yacht Club Fireworks.	Oakmont, PA	Allegheny River, Mile 12.0–12.5 (Pennsylvania).
47. 1 day—Week of July 4th	EQT 4th of July Celebration	Pittsburgh, PA	Ohio River, Mile 0.0–0.5, Allegheny River, Mile 0.0–0.5, and Monongahela River, Mile 0.0–0.5 (Pennsylvania).
48. 1 day—3rd or 4th of July	City of Paducah, KY	Paducah, KY	Ohio River, Mile 934.0–936.0; Tennessee River, mile 0.0–1.0 (Kentucky).
49. 1 day—3rd or 4th of July	City of Hickman, KY	Hickman, KY	Lower Mississippi River, Mile 921.0–923.0 (Kentucky).
50. 1 day—Last weekend in June or first week in July.	Evansville Freedom Celebration/ 4th of July Fireworks.	Evansville, IN	Ohio River, Miles 790.0–796.0 (Indiana).
51. 1 day—One of the first two weekends in July.	Madison Regatta, Inc./Madison Regatta.	Madison, IN	Ohio River, Miles 554.0–561.0 (Indiana).
52. 1 day—July 4th	Cities of Cincinnati, OH and Newport, KY/July 4th Fireworks.	Newport, KY	Ohio River, Miles 469.6–470.2 (Kentucky and Ohio).
53. 2 days—One weekend in July	Marietta Riverfront Roar Fireworks	Marietta, OH	Ohio River, Mile 171.6–172.6 (Ohio).
54. 1 day—First week or weekend in July.	Gallia County Chamber of Commerce/Gallipolis River Recreation Festival.	Gallipolis, OH	Ohio River, Mile 269.5–270.5 (Ohio).
55. 1 day—First week or weekend in July.	Kindred Communications/Dawg Dazzle.	Huntington, WV	Ohio River, Mile 307.8–308.8 (West Virginia).
56. Multiple days—September through January.	University of Pittsburgh Athletic Department/University of Pittsburgh Fireworks.	Pittsburgh, PA	Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1, Allegheny River mile 0.0–0.25 (Pennsylvania).
57. Sunday, Monday, or Thursday from August through February.	Pittsburgh Steelers Fireworks	Pittsburgh, PA	Allegheny River mile 0.0–0.25, Ohio River mile 0.0–0.1, Monongahela River mile 0.0–0.1.
58. 3 days—Third week in September.	Wheeling Heritage Port Sternwheel Festival Foundation/ Wheeling Heritage Port Sternwheel Festival.	Wheeling, WV	Ohio River, Mile 90.2–90.7 (West Virginia).
59. 1 day—One weekend in September.	Ohio River Sternwheel Festival Committee fireworks.	Marietta, OH	Ohio River, Mile 171.5–172.5 (Ohio).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
60. 1 day—Second weekend of October.	Leukemia and Lymphoma Society/Light the Night Walk Fireworks.	Nashville, TN	Cumberland River, Mile 189.7–192.1 (Tennessee).
61. 1 day—One weekend in October.	West Virginia Motor Car Festival	Charleston, WV	Kanawha River, Mile 58–59 (West Virginia).
62. 1 day—Friday before Thanksgiving.	Kittanning Light Up Night Firework Display.	Kittanning, PA	Allegheny River, Mile 44.5–45.5 (Pennsylvania).
63. 1 day—First week in October	Leukemia & Lymphoma Society/Light the Night.	Pittsburgh, PA	Ohio River, Mile 0.0–0.4 (Pennsylvania).
64. 1 day—Friday before Thanksgiving.	Duquesne Light/Santa Spectacular.	Pittsburgh, PA	Monongahela River, Mile 0.00–0.22, Allegheny River, Mile 0.00–0.25, and Ohio River, Mile 0.0–0.3 (Pennsylvania).
65. 1 day—During the first two weeks of July.	City of Maysville Fireworks	Maysville, KY	Ohio River, Mile 408–409 (Kentucky).
66. 1 day—Saturday before Memorial Day.	Venture Outdoors/Venture Outdoors Festival.	Pittsburgh, PA	Allegheny River, Mile 0.0–0.25; Monongahela River, Mile 0.0–0.25 (Pennsylvania).
67. 1 day—Third Saturday in July	Pittsburgh Irish Rowing Club/St. Brendan's Cup Currach Regatta.	Pittsburgh, PA	Ohio River, Mile 7.0–9.0 (Pennsylvania).
68. 1 day—July 4th	Wellsburg 4th of July Committee/Wellsburg 4th of July Freedom Celebration.	Wellsburg, WV	Ohio River, Mile 73.5–74.5 (West Virginia).
69. 1 day—Last week in June or first week of July.	Newburgh Fireworks Display	Newburgh, IN	Ohio River, Mile 777.3–778.3 (Indiana).
70. 3 days—Third or Fourth weekend in April.	Henderson Tri-Fest/Henderson Breakfast Lions Club.	Henderson, KY	Ohio River, Mile 802.5–805.5 (Kentucky).
71. 1 day—Third week of November.	Gallipolis in Lights	Gallipolis, OH	Ohio River, Mile 269.2–270 (Ohio).
72. 1 day—One weekend in September.	Tribute to the River	Point Pleasant, WV	Ohio River, Mile 264.6–265.6 (West Virginia).
73. 1 day—Labor Day or first week of September.	Labor Day Fireworks Show	Marmet, WV	Kanawha River, Mile 67.5–68 (West Virginia).
74. 1 day—One weekend in August.	Ravenswood River Festival	Ravenswood, WV	Ohio River, Mile 220–221 (West Virginia).
75. 1 day—First weekend or week in July.	Queen's Landing Fireworks	Greenup, KY	Ohio River, Mile 339.3–340.3 (West Virginia).
76. 1 day—First weekend in June	Cumberland River Compact/Nashville Splash Bash.	Nashville, TN	Cumberland River, Mile 189.7–192.1 (Tennessee).
77. 1 day—Second weekend in September.	Nashville Symphony/Concert Fireworks.	Nashville, TN	Cumberland River, Mile 190.1–192.3 (Tennessee).
78. 1 day—Second or third weekend in October.	Outdoor Chattanooga/Swim the Suck.	Chattanooga, TN	Tennessee River, Mile 452.0–454.5 (Tennessee).
79. 1 day—Friday or Saturday after Thanksgiving.	Friends of the Festival/Cheer at the Pier.	Chattanooga, TN	Tennessee River, Mile 462.7–465.2 (Tennessee).
80. 1 day—July 3rd	Chattanooga Presents/Pops on the River.	Chattanooga, TN	Tennessee River, Mile 462.7–465.2 (Tennessee).
81. 7 days—Scheduled home games.	University of Tennessee/UT Football Fireworks.	Knoxville, TN	Tennessee River, Mile 645.6–648.3 (Tennessee).
82. 1 day—July 3rd	Randy Boyd/Independence Celebration Fireworks Display.	Knoxville, TN	Tennessee River, Mile 625.0–628.0 (Tennessee).
83. 1 day—Second weekend in September.	City of Clarksville/Clarksville Riverfest.	Clarksville, TN	Cumberland River, Mile 124.5–127.0 (Tennessee).
84. 1 day—Fourth weekend in October.	Chattajack	Chattanooga, TN	Tennessee River, Mile 462.7–465.5 (Tennessee).
85. 1 day—First week in May	Belterra Park Gaming Fireworks	Cincinnati, OH	Ohio River, Mile 460.0–462.0 (Ohio).
86. 1 day—First week of July	Cincinnati Symphony Orchestra	Cincinnati, OH	Ohio River, Mile 460.0–462.0 (Ohio).
87. 1 day—First week in August	Gliers Goetta Fest LLC	Newport, KY	Ohio River, Mile 469.0–471.0.
88. 1 day—last 2 weekends in August/first week of September.	Wheeling Dragon Boat Race	Wheeling, WV	Ohio River mile 90.4–91.5 (West Virginia).
89. 1 day—week of July 4th	Wheeling Symphony fireworks	Wheeling, WV	Ohio River mile 90–92 (West Virginia).
90. 1 day—week of July 4th	Chester Fireworks	Chester, WV	Ohio River mile 42.0–44.0 (West Virginia).
91. 1 day—First week of August	Kittaning Folk Festival	Kittanning, PA	Allegheny River mile 44.0–46.0 (Pennsylvania).
92. 2 days—One weekend in August.	Powerboat Nationals-Parkersburg Regatta/Parkersburg Homecoming Festival.	Parkersburg, WV	Ohio River mile 183.5–185.5 (West Virginia).

TABLE 1 OF § 165.801—SECTOR OHIO VALLEY ANNUAL AND RECURRING SAFETY ZONES—Continued

Date	Sponsor/name	Sector Ohio Valley location	Safety zone
93. 1 day—One weekend in August.	Parkersburg Homecoming Festival-Fireworks.	Parkersburg, WV	Ohio River mile 183.5–185.5 (West Virginia).

* * * * *

Dated: May 7, 2018.

M.B. Zamperini,

Captain, U. S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2018–10088 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP60

Expanded Access to Non-VA Care Through the Veterans Choice Program

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, with no change, an interim final rule revising its medical regulations that implement section 101 of the Veterans Access, Choice, and Accountability Act of 2014, as amended, (hereafter referred to as ''the Choice Act''), which requires VA to establish a program (hereafter referred to as the ''Veterans Choice Program'' or the ''Program'') to furnish hospital care and medical services through eligible non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration (VHA) or who qualify based on their place of residence or face an unusual or excessive burden in traveling to a VA medical facility. Those revisions contained in the interim final rule, which is now adopted as final, were required by amendments to the Choice Act made by the Construction Authorization and Choice Improvement Act of 2014, and by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015. VA published an interim final rule on December 1, 2015, implementing those regulatory revisions, and we received seven public comments. This final rule responds to those public comments and does not make any further regulatory revisions.

DATES: *Effective date:* This rule is effective on May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director, Policy and Planning, Office of Community Care (10D1A1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (303) 372–4629. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Choice Act, Public Law 113–146, was enacted on August 7, 2014. Further amendments to the Choice Act were made by Public Laws 113–175, 113–235, 114–19, 114–41, and 115–26. Under these authorities, VA established the Veterans Choice Program and published regulations at 38 CFR 17.1500 through 17.1540. This final rule revises VA regulations in accordance with the amendments to the Choice Act made by Public Laws 114–19 and 114–41. Public Law 114–19, the Construction Authorization and Choice Improvement Act, amended the Choice Act to define additional criteria that VA may use to determine that a veteran's travel to a VA medical facility is an ''unusual or excessive burden.'' Public Law 114–41, the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, amended the Choice Act to expand eligibility for the Veterans Choice Program to all veterans enrolled in the VA health care system, to remove the 60-day limit on an episode of care, modify the wait-time and 40-mile distance eligibility criteria, and expand provider eligibility based on criteria as determined by VA. VA published an interim final rule on December 1, 2015, to implement these amendments to the Choice Act. 80 FR 74991. We received seven comments on the interim final rule and respond to those comments in the discussion below. We are adopting as final the interim final rule with no revisions.

Comments regarding changes in Public Law 114–19 related to the ''unusual or excessive burden'' standard.

Section 3(a)(2) of Public Law 114–19 amended section 101(b)(2)(D)(ii)(II) of the Choice Act by defining additional criteria that could be the basis for finding that a veteran faced an ''unusual or excessive burden'' in traveling to receive care in a VA medical facility, including environmental factors such as roads that are not accessible to the general public, traffic, or hazardous weather; a medical condition that affects the ability to travel; or other factors, as determined by the Secretary. The interim final rule revised § 17.1510(b)(4)(ii) to include environmental factors such as roads that are not accessible to the general public, traffic, or hazardous weather, or a medical condition that affects the ability to travel. The interim final rule also added three ''other factors'' to § 17.1510(b)(4)(ii)(A) through (C): The nature or simplicity of the hospital care or medical services the veteran requires; how frequently the veteran needs such hospital care; or medical services, and the need for an attendant, which is defined as a person who provides required aid and/or physical assistance to the veteran, for a veteran to travel to a VA medical facility for hospital care or medical services. VA received one positive comment in support of the revisions to § 17.1510(b)(4)(ii), and we thank the commenter for this feedback. VA did not receive any comments that suggested changes to the revisions to § 17.1510(b)(4)(ii), and therefore does not make further regulatory revisions.

Comments regarding changes in Public Law 114–41 related to veteran eligibility, periods of follow up care, wait times, distance requirements, and provider eligibility.

Section 4005(b) of Public Law 114–41 amended section 101 of the Choice Act to remove the August 1, 2014, enrollment date restriction, thereby making all veterans enrolled in the VA health care system under § 17.36 potentially eligible for the Program if they meet its other eligibility criteria. Section 17.1510 was therefore revised in the interim final rule to codify this expanded eligibility for the Program. VA implemented this change ahead of the § 17.1510 revision, as this change was not subject to notice and comment because it had an immediate effective date and VA did not need to interpret the language of the public law to give it effect. VA also did not receive any comments on this revision, and does not make any further regulatory revisions.

Section 4005(a) of Public Law 114–41 amended section 101(h) of the Choice Act by removing the 60-day limitation on an ''episode of care.'' Sec. 4005(a), Public Law 114–41, 129 Stat. 443. The definition of ''episode of care'' in § 17.1505 was therefore revised in the interim final rule by removing the

phrase ''which lasts no longer than 60 days from the date of the first appointment with a non-VA health care provider,'' and the 60-day limitation was replaced with a 1-year limitation, consistent with VA's authority in section 101(c)(1)(B)(i) of the Choice Act to establish a timeframe for authorization of care. VA received one comment in support of this change, but this comment also suggested that VA make exceptions to the 1-year limitation, particularly for chronic conditions, to avoid the possibility of the unnecessary cessation of care due to reauthorization requirements. The comment further suggested that VA should provide more specific information regarding what a community provider would need to submit to VA to obtain a broader authorization beyond 1-year, and that VA should provide more details on the process community providers may follow to ''provide additional care outside the scope of the authorized course of treatment.'' We agree that veterans should not experience cessations of treatment for an ongoing condition if they require care beyond one year; the regulations do therefore allow reauthorization for additional episodes of care as needed. However, we believe that it is important that VA reauthorize an episode of care annually even in those instances where it is apparent at the time of the initial authorization that the condition is chronic and care will be required for greater than one year. A chronic medical condition may change over time, resulting in a need to reexamine the authorized scope of care. Annual reauthorization of an episode of care provides an opportunity for VA to review the scope of the episode of care with the healthcare provider and make necessary revisions to meet the needs of the veteran. Care may only be provided within the scope of the authorized episode of care, as defined in § 17.1505 as a ''necessary course of treatment, including follow-up appointments and ancillary and specialty services'' for identified health care needs. If a community provider believes that a veteran needs additional care outside the scope of the authorized course of treatment, the health care provider must contact VA prior to administering such care to ensure that this care is authorized and therefore will be paid for by VA. Details regarding what specific information must be submitted or what processes must be followed to obtain authorizations for additional episodes of care, or for an authorization to provide care not authorized as part of the episode of care, is too specific for a regulation, but information is available from the contractors that administer the Choice program and from VA when the care is authorized under a Choice provider agreement. VA continually works with the contractors and with community providers to improve education and processes under the Program. VA does not make any further regulatory revisions based on this comment.

Section 4005(d) of Public Law 114–41 amended section 101(b)(2)(A) of the Choice Act to create eligibility for veterans that are unable to be scheduled for an appointment within ''the period determined necessary for [clinically necessary] care or services if such period is shorter than'' VHA's wait time goals. Section 4005(d), Public Law 114–41, 129 Stat. 443. This new wait-times based criterion was added as paragraph (b)(1)(ii) of § 17.1510, and created eligibility when a veteran is unable to schedule an appointment within a period of time that VA determines is clinically necessary and which is shorter than VHA's wait time goals. VA received one positive comment in support of this revision, and we thank the commenter for this feedback. VA did not receive any comments that suggested changes to this revision, and therefore does not make further regulatory revisions.

Section 4005(e) of Public Law 114–41 amended section 101(b)(2)(B) of the Choice Act to modify the 40-mile distance eligibility criterion to provide that veterans may be eligible if they reside more than 40 miles from ''(i) with respect to a veteran who is seeking primary care, a medical facility of the Department, including a community-based outpatient clinic, that is able to provide such primary care by a full-time primary care physician; or (ii) with respect to a veteran not covered under clause (i), the medical facility of the Department, including a community-based outpatient clinic, that is closest to the residence of the veteran.'' VA found that it would be impracticable and not veteran centric to apply a ''seeking primary care'' eligibility criterion, and therefore did not revise the general 40-mile requirement in § 17.1510(b)(1) in the interim final rule to reflect such a strict reading of the public law. However, VA did revise § 17.1505 to add a definition of ''full-time primary care physician,'' as well as amend the definition of ''VA medical facility'' to require that such a facility have a full-time primary care physician, so that for purposes of determining distance-related eligibility for the Program, VA considered a qualifying VA medical facility to include only those facilities with at least a full-time primary care physician. VA received one positive comment in support of this revision, and we thank the commenter for this feedback. VA did not receive any comments that suggested changes to this revision, and therefore does not make further regulatory revisions.

Section 4005(c) of Public Law 114–41 amended sections 101(a)(1)(B) and 101(d) of the Choice Act to permit VA to expand provider eligibility beyond those providers expressly listed in section 101(a)(1)(B) of the Choice Act, in accordance with criteria as established by VA. In the interim final rule, VA revised § 17.1530(a) to refer to a new paragraph (e) that established eligibility for these other providers, and added a new paragraph (e) to § 17.1530 to list these providers specifically. VA also revised § 17.1530(d) to reorganize current requirements and add new requirements for these providers, in accordance with section 101(d)(5) of the Choice Act. VA received two positive comments in support of this revision, and we thank the commenters for this feedback. VA received one comment that inquired whether, given the expansion of eligible providers, such providers were required to be Medicare-participating providers. We clarify that eligible providers in the Program include but are not limited to Medicare-participating providers, as established in § 17.1530(a) and (e). With this clarification, and because VA did not receive any comments that suggested changes to this revision, we therefore do not make further regulatory revisions.

Miscellaneous Comments

The remaining five comments do not specifically pertain to the regulatory changes in the interim final rule, and are addressed here in turn.

One commenter requested that the end date of August 7, 2017, for the Choice Act be removed and the program made permanent. The Choice Act, which was enacted on August 7, 2014, in Public Law 113–146, specifically prescribed that the Choice Program would be temporary, operating for 3 years or until the funding was exhausted, whichever came first. The 3-year sunset date was removed by Public Law 115–26, and so the Choice Program is authorized until the amounts appropriated in the Choice Fund are exhausted. Current regulations do not discuss the termination date of the Program, and VA does not make any regulatory changes based on Public Law 115–26 or this comment.

Another commenter expressed a generalized concern that the Choice

Program created additional barriers to access healthcare as well as expressed specific concerns about the Choice Program. To address the commenter's generalized concern related to barriers to access, we acknowledge the difficulties that some veterans have experienced and expressed since the inception of the Choice Program in August 2014, and we are similarly sympathetic to the commenter's expressed experiences. Congress mandated that VA implement the Choice Program in 90 days, and implementing such an unprecedented program in terms of VA care in the community on a nationwide basis, in 90 days, resulted in growing pains for veterans, community providers, and VA. During the initial year of the Choice Program, VA met with veterans, community providers, leading healthcare experts, and staff across the country to hear concerns and identify solutions. In order to immediately implement changes to the Choice Program, VA brought in new leadership to oversee all Community Care Programs. Under this new leadership, VA quickly began to improve the Choice Program and laid out a plan to drive towards a future that delivers the best of VA and the community. VA has earnestly tried to implement the Choice Program in accord with legal requirements while being mindful of veteran concerns and administrative realities, and VA will continue to strive to reduce any barriers communicated to us by veterans. VA does not make any regulatory changes to address the commenter's generalized concerns about the Choice Program.

As to the commenter's specific concerns, the commenter stated that there are no clear channels for resolution of complaints or problems when authorization for care has been delayed. The commenter further elaborated that it is difficult to access the Choice Program call centers and, once contact is made with the call center, it is difficult to receive answers from the employees working in the call centers. The commenter suggested that a process be put in place to address complaint resolution. We interpret these concerns to be limited to issues that arise administratively when the veteran is already enrolled in the Choice Program, such as delays in authorization, and not concerns regarding eligibility to participate in the Choice Program or concerns with clinical decisions throughout the course of treatment. Therefore, we further interpret these concerns to relate to the internal processes relating to administration of the program and do not make any regulatory changes. However, we describe below processes and improvements that both VA and the contractors that administer the Choice Program have undertaken and which we believe obviate the need for more formal processes in regulation.

VA has taken affirmative steps to decrease administrative burdens such as delays in authorization and has improved access to VA staff through the VA call centers and the internet. For instance, VA has reduced the administrative burden for medical record submission for community providers by streamlining the documents required. We also have strived to improve veterans' experience with the call centers throughout the past year. More specifically, in May 2015, it took approximately 11 days to contact the veteran, obtain their provider and appointment preference, and work with the community provider to schedule an appointment; by May 2016, the average number of days to accomplish those tasks decreased to only 6. The Choice Program call centers have also continued to improve with a call abandon rate of less than 2 percent; a call hold time of no more than 7 seconds; and first-time call resolution over of 96 percent. In addition, Veterans are able to contact VA directly through this website that is available to the public: *http://www.va.gov/opa/choiceact/*. The website contains information about the program, a phone number that veterans can call in order to speak to a person directly, and also contains a live chat option that is available to veterans Monday through Friday from 8 a.m. to 8 p.m., eastern standard time. The vendors who administer the Choice Program additionally have processes in place for veterans who experience delays when receiving care in the community. The complaints and grievance processes for the contractors, TriWest and Health Net, are available at their public websites, respectively: *http://www.triwest.com/globalassets/documents/veteran-services/complaint-grievance_form.pdf* and *https://www.hnfs.com/content/hnfs/home/va/provider/resources/resources/grievances.html*.

The commenter next expressed the specific concern that rural veterans are disproportionately negatively impacted by barriers created by the Choice Act and VA and that such veterans' feedback is not heard by VA as a result of their disability status and geographic location. We first clarify that VA strives to gain feedback from all veterans, including those who live in rural areas, about their experiences with the Choice Program. To obtain feedback from all veterans, regardless of their geographic location, VA developed a Survey of Healthcare Experiences of Patients (SHEP) for veterans to complete after receiving Choice care. We further acknowledge that there are unique problems that affect rural veterans and that it may be more difficult for rural veterans to obtain health care near their residence. In this regard, the 40-mile distance criterion in the Choice Program regulations at § 17.1510(b)(2) is designed to address accessibility issues that affect rural Veterans. Particularly, the 40-mile criterion has been interpreted by VA to consider driving distance and not straight line distance (see 80 FR 22906, April 24, 2015), and to further interpret that this distance must be from a Veteran's residence to a VA medical facility that has at least one full time equivalent primary care physician (see 80 FR 74991, December 1, 2015). Both of these interpretations we believe increase the number of rural veterans eligible for the program, and VA otherwise actively seeks and documents the concerns of rural veterans that participate in the Choice program with its SHEP survey as described above. Therefore, we make no regulatory changes based on this comment.

The commenter also stated that the Choice Program has created coordination of care issues for non-VA providers who administer health care for veterans. The commenter did not elaborate on what those issues are or how the Choice Program created them, or whether the interim final rule exacerbated the issues, and the commenter also did not suggest any changes to alleviate the issues. We do acknowledge that there may have been difficulty with coordination of care at the inception of the Choice Program, and, to enhance coordination of care for veterans, we have embedded Choice contractor staff with VA staff at 14 VA facilities, and continue to increase the number of embedded Choice contractor staff locations. As the commenter did not provide enough specificity for suggested regulatory changes, and we believe VA has undertaken efforts to mitigate coordination of care issues, we do not make any regulatory revisions based on this comment.

Finally, the commenter explained that it was easier to seek care prior to the Choice Program and that, even though the Program is voluntary, veterans are being told that they must use the Choice Program over VA care and other VA care in the community permitted by legal authorities other than the Choice Act. We first clarify that the Choice Program

is voluntary and veterans are provided the option of obtaining care solely at VA medical facilities. Significantly, the Choice Program is designed to respect and guarantee a veteran's choice to see a VA provider or a non-VA provider if they meet Choice Program criteria. In fact, if an eligible veteran elects to receive covered care through the Choice Program, VA is required by the Choice Act to furnish the care through the Program. In addition, the Choice Act authorized VA to purchase care through Choice provider agreements, which gives VA greater flexibility when furnishing care through the Choice Program. VA recognizes that some veterans faced administrative barriers and hurdles while seeking care through the Choice Program and that some veterans may have found it was easier in the past to seek VA care in the community under legal authorities other than the Choice Act. To ensure the Choice Program provides high quality and accessible care, VA has made and will continue to make improvements by working with Congress, our community providers, our Choice Program contractors and within VA. Therefore, we do not make any further regulatory revisions based on this comment.

The final three comments are beyond the scope of the interim final rule and we will not make any regulatory changes based on the comments. One commenter expressed concern about the recertification process to become a vendor and contract with VA through ''*vetbiz.gov.*'' The process of vendorization on *vetbiz.gov* does not apply for clinical providers under the Choice Act. As the commenter did not otherwise reference the interim final rule or the Choice Program regulations generally, nor did the commenter state how the ability to recertify as a vendor was affected by the interim final rule or Choice regulations, we find that the comment is beyond the scope of the rulemaking.

Another commenter supported the interim final rule because it would enable the commenter to access community care near the commenter's residence in Panama. Care under the Choice Program is not provided outside of the United States. VA's only authority to provide care abroad is through the foreign medical care provisions in 38 U.S.C. 1724, and the Choice Act did not affect this limitation.

Another commenter expressed a concern over the potentially burdensome nature of the administrative requirements to participate in the Choice Program. Specifically, the commenter requested that VA be mindful that an overly complicated process to apply to participate in the Choice Program may deter people who are eligible and entitled to participate in the Program. The commenter did not specify what these burdens are or if they were made worse by revisions in the interim final rule. Therefore, we interpret the comment to be general in scope. Although the interim final rule and the Choice regulations contain eligibility criteria, they do not contain any requirements or guidance for how to apply to participate in the Choice Program. Therefore, we find that the comment is not within the scope of the rulemaking and we will not make any regulatory changes based on this comment.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as confirmed by this final rule, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this action contains provisions constituting collections of information, at 38 CFR 17.1530(d), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this final rule. The information collection requirements for § 17.1530(d) are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900–0823.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined that this is an economically significant regulatory action under Executive Order 12866. VA's regulatory impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its regulatory impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.'' VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm* by following the link for VA Regulations Published from FY 2004 through FYTD. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than *de minimis* costs.

Congressional Review Act

This regulatory action is a major rule under the Congressional Review Act, 5 U.S.C. 801–08, because it may result in an annual effect on the economy of $100 million or more. Although this regulatory action constitutes a major rule within the meaning of the Congressional Review Act, 5 U.S.C. 804(2), it is not subject to the 60-day delay in effective date applicable to major rules under 5 U.S.C. 801(a)(3) because the Secretary finds that good cause exists under 5 U.S.C. 808(2) to make this regulatory action effective on the date of publication, consistent with

the reasons given for the publication of the interim final rule. In accordance with 5 U.S.C. 801(a)(1), VA will submit to the Comptroller General and to Congress a copy of this regulatory action and VA's Regulatory Impact Analysis.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any 1 year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will not have a significant economic impact on participating eligible entities and providers who enter into agreements with VA. To the extent there is any such impact, it will result in increased business and revenue for them. We also do not believe there will be a significant economic impact on insurance companies, as claims will only be submitted for care that will otherwise have been received whether such care was authorized under this Program or not. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are as follows: 64.008—Veterans Domiciliary Care; 64.011—Veterans Dental Care; 64.012—Veterans Prescription Service; 64.013—Veterans Prosthetic Appliances; 64.014—Veterans State Domiciliary Care; 64.015—Veterans State Nursing Home Care; 64.024—VA Homeless Providers Grant and Per Diem Program; 64.026—Veterans State Adult Day Health Care; 64.029—Purchase Care Program; 64.035—Veterans Transportation Program; 64.038—Grants for the Rural Veterans Coordination Pilot; 64.039—CHAMPVA; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.043—VHA Mental Health Residential; 64.044—VHA Home Care; 64.045—VHA Outpatient Ancillary Services; 64.046—VHA Inpatient Psychiatry; 64.047—VHA Primary Care; 64.048—VHA Mental Health Clinics; 64.049—VHA Community Living Center; 64.050—VHA Diagnostic Care.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document Janaury 12, 2018, for publication.

Dated: May 8, 2018.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

PART 17—MEDICAL

■ Accordingly, the interim rules amending 38 CFR part 17 which were published at 80 FR 74991 on December 1, 2015, and 81 FR 24026 on April 25, 2016, are adopted as final without change.

[FR Doc. 2018–10054 Filed 5–10–18; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AQ06

Authority of Health Care Providers To Practice Telehealth

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical regulations by standardizing the delivery of care by VA health care providers through telehealth. This rule ensures that VA health care providers can offer the same level of care to all beneficiaries, irrespective of the State or location in a State of the VA health care provider or the beneficiary. This final rule achieves important Federal interests by increasing the availability of mental health, specialty, and general clinical care for all beneficiaries.

DATES: This final rule is effective June 11, 2018.

FOR FURTHER INFORMATION CONTACT: Kevin Galpin, MD, Executive Director Telehealth Services, Veterans Health Administration Office of Connected Care, 810 Vermont Avenue NW, Washington, DC 20420, (404) 771–8794, (this is not a toll-free number), *Kevin.Galpin@va.gov.*

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on October 2, 2017, VA proposed to amend its medical regulations by standardizing the delivery of health care by VA health care providers through telehealth. 82 FR 45756. VA provided a 30-day comment period, which ended on November 1, 2017. We received 75 comments on the proposed rule.

Section 7301 of title 38, United States Code (U.S.C.), establishes the general functions of the Veterans Health Administration (VHA) within VA, and establishes that its primary function is to ''provide a complete medical and hospital service for the medical care and treatment of veterans, as provided in this title and in regulations prescribed by the Secretary [of Veterans Affairs (Secretary)] pursuant to this title.'' See 38 U.S.C. 7301(b). The Secretary is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department, including agency personnel and management matters. See 38 U.S.C. 303. To this end, Congress authorized the Secretary ''to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department and are consistent with those laws.'' See 38 U.S.C. 501(a). The Under Secretary for Health is directly responsible to the Secretary for the operation of VHA. See 38 U.S.C. 305(b). Unless specifically otherwise provided, the Under Secretary for Health, as the head of VHA, is authorized to ''prescribe all regulations necessary to the administration of the Veterans Health Administration,'' subject to the approval of the Secretary. See 38 U.S.C. 7304.

To allow VA to carry out its medical care mission, Congress also established a comprehensive personnel system for certain VA health care providers, independent of the civil service rules.

See 38 U.S.C. chapters 73–74. Congress granted the Secretary express statutory authority to establish the qualifications for VA's health care providers, determine the hours and conditions of employment, take disciplinary action against employees, and otherwise regulate the professional activities of those individuals. See 38 U.S.C. 7401–7464.

To be eligible for appointment as a VA employee in a health care position covered by 38 U.S.C. 7402(b) (other than a medical facility Director appointed under section 7402(b)(4)), a person must, among other requirements, be licensed, registered, or certified to practice his or her profession in a State. The standards prescribed in section 7402(b) establish only the basic qualifications necessary ''[t]o be eligible for appointment'' and do not limit the Secretary or Under Secretary for Health from establishing other qualifications for appointment, or additional rules governing such personnel. In particular, section 7403(a)(1) provides that appointments under chapter 74 ''may be made only after qualifications have been established in accordance with regulations prescribed by the Secretary, without regard to civil-service requirements.'' Such authority is necessary to ensure the viability of our national health care system, which is designed to ensure the well-being of those who have ''borne the battle.''

Just as it is critical to ensure there are qualified health care providers on-site at all VA medical facilities, VA must ensure that all beneficiaries, specifically including beneficiaries in remote, rural, or medically underserved areas, have the greatest possible access to mental health care, specialty care, and general clinical care. Thus, VA developed a telehealth program as a modern, beneficiary- and family-centered health care delivery model that leverages electronic information or telecommunication technologies to support clinical health care, patient and professional health-related education, public health, and health administration, irrespective of the State or location within a State where the health care provider or the beneficiary is physically located at the time the health care is provided. Telehealth enhances VA's capacity to deliver essential and critical health care services to beneficiaries located in areas where certain health care providers may be unavailable or to beneficiaries who may be unable to travel to the nearest VA medical facility for care because of their medical conditions. By providing health care services by telehealth from one State to a beneficiary located in another State or within the same State, whether that beneficiary is located at a VA medical facility or in his or her own home, VA can use its limited health care resources most efficiently.

Congress has required other Departments and agencies to conduct telehealth programs. See, *e.g.,* Public Law 114–328, sec. 718(a)(1) (''the Secretary of Defense shall incorporate, throughout the direct care and purchased care components of the military health system, the use of telehealth services''). While VA does not have an analogous mandate, several statutes confirm that Congress intends for VA to operate a national health care system for beneficiaries that includes telehealth. Congress has required the Secretary ''to carry out an initiative of teleconsultation for the provision of remote mental health and traumatic brain injury assessments in facilities of the Department that are not otherwise able to provide such assessments without contracting with third-party providers or reimbursing providers through a fee basis system.'' See 38 U.S.C. 1709A(a)(1). Congress has authorized the Secretary to ''waive the imposition or collection of copayments for telehealth and telemedicine visits of veterans under the laws administered by the Secretary.'' See 38 U.S.C. 1722B. And, as recently as December 2016, Congress required VA to initiate a pilot program to provide veterans a self-scheduling, online appointment system; this pilot program must ''support appointments for the provision of health care regardless of whether such care is provided in person or through telehealth services.'' See Public Law 114–286, sec. 3(a)(2).

In an effort to furnish care to all beneficiaries and use its resources most efficiently, VA needs to operate its telehealth program with health care providers who will provide services via telehealth to beneficiaries in States in which they are not located, licensed, registered, certified, or otherwise authorized by the State. Without this rulemaking, doing so may jeopardize these providers' credentials, including fines and imprisonment for unauthorized practice of medicine, because of conflicts between VA's need to provide telehealth across the VA system and some States' laws or requirements for licensure, registration, certification, that restrict the practice of telehealth. A number of States have already enacted legislation or regulations that restrict the practice of interstate telehealth.

This final rulemaking clarifies that VA health care providers may exercise their authority to provide health care through the use of telehealth, notwithstanding any State laws, rules, licensure, registration, or certification requirements to the contrary. In so doing, VA is exercising Federal preemption of conflicting State laws relating to the practice of health care providers; laws, rules, regulations, or other requirements are preempted to the extent such State laws conflict with the ability of VA health care providers to engage in the practice of telehealth while acting within the scope of their VA employment. Preemption is the minimum necessary action for VA to furnish effective telehealth services because it would be impractical for VA to lobby each State to remove any restrictions that impair VA's ability to furnish telehealth services to beneficiaries and then wait for the State to implement appropriate changes. That process would delay the growth of telehealth services in VA, thereby delaying delivery of health care to beneficiaries. It would be costly and time-consuming for VA and would not guarantee a successful result. We note that, apart from the limited action of authorizing telehealth across and within jurisdictions in furtherance of important Federal interests, this rulemaking does not expand the scope of practice for VA health care providers beyond what is required or authorized by Federal law and regulations or as statutorily defined in the laws and practice acts of the health care provider's State of licensure. Additionally, this rulemaking does not affect VA's existing requirement that all VA health care providers adhere to restrictions imposed by their State license, registration, or certification regarding the professional's authority to prescribe and administer controlled substances. To further clarify this point, we have changed subsection (b) to clearly state that this section does not otherwise grant health care providers additional authorities that go beyond what is required or authorized by Federal law and regulations or as defined in the laws and practice acts of the health care providers' State license, registration, or certification. This is simply a clearer statement of the policy articulated in the proposed rule, but is being added because of the public comments we received expressing differing views on this matter.

For these reasons, VA is establishing a new regulation, 38 CFR 17.417, that authorizes VA health care providers to treat beneficiaries through telehealth irrespective of the State, or of the location in a State, of the VA health care provider or the beneficiary.

Most of the comments that were received on the proposed rule support

the rule and are summarized as follows. We received several comments supporting the rule saying that it would increase access to health care, specifically for those beneficiaries who live in rural and medically underserved areas who are not able to go to a VA medical facility either because of their location or their medical conditions. We also received many comments in support of the rule stating that telehealth has been shown to improve clinical outcomes and would improve the quality of care at VA. The commenters stated that the telehealth program would be successful in treating beneficiaries with a variety of conditions, including respiratory conditions, cardiovascular conditions, psychotherapy, post-traumatic stress disorder, traumatic brain injuries, Parkinson's disease, multiple sclerosis, vision loss, sleep disorders, and audiological conditions. One commenter summarized key clinical studies demonstrating the benefits of telehealth technologies. Similarly, commenters stated that more convenient access to health care would result in more personalized care, more engagement by beneficiaries and their caregivers, better health outcomes, and an improved quality of life. Several commenters stated that the proposed rule would help streamline health care for veterans and would facilitate modern, beneficiary and family centered health care.

In addition to the benefits for VA beneficiaries, many commenters supported the rule because it would benefit VA more generally and VA's health care providers. A commenter supported the rule, saying that it would protect health care providers while they are practicing within the scope of their VA employment. Multiple commenters supported the rule citing its cost effectiveness. In addition, a commenter said that it would result in shorter appointments for patients and physicians and would also decrease appointment no-show rates. Other commenters said that the rule would reduce the use and cost of transportation, save beneficiaries and their caregivers hours of their time and lost wages, result in hospital cost savings through decreased emergency room and hospital visits, and increase local revenues for laboratories and pharmacies. In addition, multiple commenters supported the rule stating that State licensing barriers hindered telehealth and that it was necessary to remove artificial and geographic State barriers. A commenter also stated that they supported the proposed rule because it would provide opportunities for the medical students and residents who train at VA to become familiar with telehealth and be exposed to its optimal uses.

Several commenters supported the rule because it did not include contract physicians. In particular, one commenter stated that contract physicians are not subject to the same accountability, oversight, training, and quality control as those employed directly by VA. We are not making any edits based on these positive comments.

In addition to the previously discussed comments supporting the rule, the Federal Trade Commission (FTC) also submitted a supportive comment. Specifically, the FTC said that the rule would likely increase access to telehealth services, increase the supply of telehealth providers, increase the range of choices available to patients, improve health care outcomes, reduce long-term costs by reducing hospitalizations and treatment of advanced disease, and reduce travel costs incurred by VA. The rule would also enhance price and non-price competition and improve the ability of VA to compete more effectively by hiring qualified providers and reducing VA's health care costs. FTC also stated that the rule would provide an important example to non-VA health care providers, state legislatures, employers, patients, and others of telehealth's potential benefits and may spur innovation among other health care providers and, thereby, promote competition and improve access to care. In addition, FTC stated that the rule may afford a valuable opportunity to gather data and provide additional evidence for VA and outside policymakers to assess the effects of telehealth expansion, thereby benefitting VA beneficiaries and health care consumers generally. We are not making any edits based on these comments.

We received multiple comments that favored VA's proposed rule and that focused on how VA could utilize specific commercially available software and company products. The commenters believed that these products could improve the telehealth services described in the proposed rule. We appreciate the commenters' suggestions and innovative solutions, but these comments are beyond the scope of the proposed rule, which does not address the specific technology or platforms VA uses in furnishing telehealth. We are not making any edits based on these comments.

A commenter was in support of the proposed rule but added that the rule should extend to all VA-funded health services. The proposed rule only addressed the protection of VA health care providers while providing telehealth services within the scope of their VA employment. We do not believe it is prudent or necessary at this time to include contract providers within the scope of this rule. We are not making any edits based on this comment.

A commenter supported the rule, but indicated that VA should have a mechanism in place to monitor the overall satisfaction and health of the beneficiaries who receive care via telehealth. VA is committed to ensuring that beneficiaries receive high quality health care. VA has controls in place to continuously monitor the health care provided by all VA health care providers, including telehealth providers. This rule will not affect the quality of the health care provided or the internal controls currently in place. We are not making any edits based on this comment.

Several commenters indicated that the rule should be extended to cover health care providers who participate in the Veterans Choice Program, authorized by section 101 of the Veterans Access, Choice, and Accountability Act of 2014 or other health care furnished by non-Department providers. Similarly, another commenter said that the rule restricts VA ''regarding contracting with an outside entity that may be able to fill a need through Choice or any other community care program.'' The commenter stated that VA can ensure that a contractor meets the full standard of VA appointees by requiring that the contractor be a VA appointee and requiring that the contractor meet the licensure and credentialing requirements of 38 U.S.C. 7402(b).

VA acknowledges that the rule does not provide the same protection for community health care providers furnishing care for VA, including health care providers who participate in the Choice Program, as it does for VA health care providers. The proposed rule stated that a health care provider must be appointed by VA and cannot be a VA-contracted health care provider. Community health care providers may practice telehealth; however, they would be required to adhere to their individual State license, registration, or certification requirements and would not be otherwise covered by this rule. We do not believe it is prudent or necessary at this time to include contract providers within the scope of this rule. Additionally, contractors are not given an appointment to VA; only employees are given appointments. To

further clarify this point, we have changed subsection (a)(2)(iv) to clearly state that this section does not apply to VA-contracted health care providers. This is simply a clearer statement of the policy articulated in the proposed rule, but is being added because of the public comments in which there is confusion as to whether a contractor is a VA employee. Finally, community providers may be unable or unwilling to furnish telehealth across State lines. The Federal Tort Claims Act (FTCA) would cover VA providers in the event of a malpractice claim, but FTCA does not cover community providers. It is unclear whether or not the insurers or State level tort claims acts would cover community providers in the case of malpractice. We are not making any other edits based on these comments.

A commenter stated that VA should pay physicians under the Veterans Choice Program at or above the Medicare rate, and that VA should include rural health clinics in the Veterans Choice Program. These issues are related to administration of the Veterans Choice Program and not to this rule, which governs VA employees' authority to practice telehealth. This comment is, therefore, beyond the scope of the proposed rule. We are not making any edits based on this comment.

Several commenters indicated that VA should take further efforts to combat States' laws restricting telehealth. We stated in the proposed rule that it would be ''impractical for VA to lobby each State to remove its restrictions that impair VA's ability to furnish telehealth services to beneficiaries and then wait for the State to implement appropriate changes.'' We understand the commenters' concerns and agree that having equitable State laws relating to telehealth would be ideal. However, such action is beyond the scope of this rulemaking. We are not making any edits based on these comments.

Several commenters were in favor of the rule but stated that registered nurses, nurse practitioners, physician assistants, and advanced practice registered nurses should be allowed to practice to the full extent of their clinical education, training, and national certificates. Several commenters also indicated that VA should prohibit the supervision of certified registered nurse anesthetist services from being included as part of the expansion of telehealth services in VA. The granting of full practice authority to certain advanced practice registered nurses has already been addressed via rulemaking. See 38 CFR 17.415 and 81 FR 90198. Moreover, the proposed rule only addressed the types of settings where VA health care providers could provide telehealth services and established that all VA health care providers may be allowed to practice telehealth. As previously said in this rulemaking, the proposed rule does not expand VA health care providers' authority beyond what is required or authorized by Federal law and regulations or as defined in the laws and practice acts of the health care provider's State of licensure. Any changes except preempting State laws, rules, regulations and requirements that restrict VA's telehealth authority are beyond the scope of the proposed rule. We are not making any edits based on these comments.

One commenter was concerned that health care providers would not be protected under their medical malpractice insurance plans. This rulemaking will allow VA to better protect its health care providers who practice telehealth within the scope of their VA employment, regardless of conflicting State laws or regulations. The FTCA is the exclusive remedy ''for damages for personal injury, including death, allegedly arising from malpractice or negligence of a health care employee of the [Veterans Health] Administration in furnishing health care or treatment while in the exercise of that employee's duties in or for the Administration.'' See 38 U.S.C. 7316. Subsection (c) of the statute provides in part: ''Upon a certification by the Attorney General that the defendant was acting in the scope of such person's employment in or for the Administration at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be . . . deemed a tort action brought against the United States under the provisions of title 28 and all references thereto.'' VA health care providers would, therefore, be protected from personal liability while providing care within the scope of their VA employment, including the provision of telehealth services. We are not making any edits based on this comment.

Several commenters were concerned that a health care provider would not be protected from all individual actions by the State against the provider's license, registration, or certification by the proposed rule. Another commenter indicated that a health care provider would be engaged in unauthorized health care practice unless the provider was licensed, registered, or certified in the State where they practice. As we said in the proposed rule, ''VA would exercise Federal preemption of State licensure, registration, and certification laws, rules, regulations, or requirements to the extent such State laws conflict with the ability of VA health care providers to engage in the practice of telehealth while acting within the scope of their VA employment.'' We also said that ''in circumstances where there is a conflict between Federal and State law, Federal law would prevail in accordance with Article VI, clause 2, of the U.S. Constitution (Supremacy Clause).'' Therefore, VA health care providers are protected by this final rule from any actions by individual States or State licensing boards to enforce a State law, rule, regulation or requirement while VA health care providers are practicing telehealth within the scope of their VA employment. We are not making any edits based on these comments.

A commenter strongly supported States' ability to regulate the practice of telehealth within their State, saying that ''only physicians and surgeons licensed in [a State] should be allowed to practice medicine in [in that State], in order to ensure the highest quality medical care is being provided to health care consumers.'' The commenter further said that the proposed rule ''would undermine [the State's] ability to protect health care consumers, as the Board will have no ability to discipline VA providers that are licensed in another state and providing telehealth outside of a VA facility in [that State], as they do not hold a license to practice medicine in [their State].'' VA disagrees that this rulemaking will undermine the States' abilities to protect their health care consumers. VA has robust requirements for disciplining providers who fail to provide adequate health care, which includes reporting that provider to his or her licensing board, if applicable. We are not making any edits based on this comment.

One commenter recommended that VA work to improve the system for investigating, removing, and reporting bad providers to State licensing boards and also recommended that this be part of the policy that would implement this rulemaking. Another commenter also expressed concern that if a State cannot discipline a physician practicing medicine within its borders, it undermines the medical licensure system. VA currently has a system in place for reporting health care providers to State licensing boards whose behavior or clinical practice so substantially failed to meet generally-accepted standards of clinical practice as to raise reasonable concern for the safety of patients. VA continues to work closely with State licensing boards to further improve the reporting of VA

health care providers who have failed in VA's mission of providing safe care to its beneficiaries. Patients would still have the ability to file a tort claim and States would still have ability to prosecute for criminal offenses. However, this rulemaking only focuses on the expansion of VA telehealth services and only prohibits States from taking actions to enforce a State law, rule, regulation or requirement against VA health care providers while practicing telehealth. We are not making any edits based on these comments.

One commenter indicated that telehealth may not be the appropriate means of delivering health care to beneficiaries with some mental health conditions. Another commenter said that telehealth would not benefit homeless beneficiaries who suffer from mental conditions. We agree with the commenters that telehealth may not be the most appropriate means for the delivery of health care for all beneficiaries. However, health care providers and beneficiaries will have the opportunity to determine the best treatment option for the delivery of health care in each individual situation. We also agree that the delivery of health care via telehealth in a beneficiary's home may not be a viable means of health care for a homeless beneficiary. However, homeless beneficiaries may still benefit from telehealth visits from their local VA medical facility. A homeless beneficiary can be seen in a VA medical facility and be treated for his or her health condition from a health care specialist who is remotely performing the health care visit from another VA medical facility. We are not making any edits based on these comments.

Several commenters were concerned that the health care provider would rely on verbal communication and not be able to observe symptoms such as manic behaviors, tremors, cuts, bruises, or other possible signs of self-imposed injuries that would have otherwise been visible in an in person exam. A commenter said that health care providers would get a limited medical history by examining a beneficiary via telehealth, especially if the beneficiary has comorbidities and addictions that may not be obvious via telehealth. The commenter further said that beneficiaries could be misdiagnosed and some health care conditions missed if the beneficiary was only seen via telehealth. Another commenter said that a face to face interview helps a health care provider gain a better rapport with a patient. Another commenter was also concerned that the continuity of health care would be affected because the primary care provider would not have access to the telehealth records and thus be presented with an incomplete medical history of the patient. This would especially be detrimental if the beneficiary had been prescribed medications during the telehealth visit. The commenter indicated that the beneficiary would receive a lower quality of care via telehealth than what they would have received in an in-person health care visit. Another commenter said that the use of telehealth for eye care services should not substitute the benefits of an in-person eye examination. This rulemaking authorizes VA providers to offer telehealth services as an option for beneficiaries irrespective of the location of the health care provider or the beneficiary. The rule enhances the accessibility of VA health care by providing beneficiaries an additional option through which they can engage in the health care system. The rule does not create a requirement for service delivery through telehealth; instead, it empowers health care providers and beneficiaries to choose when telehealth is appropriate. VA believes that the health care provider and the beneficiary are in the best position to make decisions about the risks and benefits of any health care decision and will ultimately decide the best option for the delivery of such care. Also, VA health care providers will have access to a beneficiary's health record during a telehealth visit and the telehealth visit will become part of the health record. We are not making any edits based on these comments.

Several commenters questioned the privacy of the beneficiary when video-conferencing was used. The commenters were concerned that the telehealth visit would be intercepted by a third party, which would violate the beneficiary's privacy. A commenter was also concerned that putting the beneficiary's information on an online database would give rise to Health Insurance Portability and Accountability Act (HIPAA) and security concerns. Another commenter said that the proposed rule did not ''identify security standards or other requirements VA health care providers are expected to abide by when providing services via telehealth.'' Information security and privacy are critical priorities for VA. The Veterans Health Administration, and its telehealth program, work hand in hand with the VA Office of Information Technology and Information Security when implementing telehealth programs. Equipment, software, and process choices are made to mitigate security risks and ensure adherence to the Federal Government's stringent information security and privacy requirements, including standards defined by the Federal Information Security Management Act, the National Institute of Standards and Technology, the Privacy Act, and HIPAA. As an example of one measure to protect privacy, clinical video data is encrypted to mitigate the risk of third party interception during video visits. Beneficiary data will not be stored outside VA, nor will it persist on the beneficiary's device following the telehealth session. All VA employees, including health care providers, have to adhere to the privacy and security standards implemented by VA. We are not making any edits based on these comments.

Another commenter strongly felt that beneficiaries should be seen in-person at least once before being prescribed medication, including controlled substances. Several commenters encouraged VA to establish an interagency working group between VA, the Food and Drug Administration, and the Drug Enforcement Administration (DEA) to ensure that beneficiaries have safe access to care by modernizing rules regarding advanced practice registered nurses prescriptive authority. The proposed rule said that the rule ''does not affect VA's existing requirement that all VA health care providers adhere to restrictions imposed by their State license, registration, or certification regarding the professional's authority to prescribe and administer controlled substances.'' We also said in the proposed rule that health care providers will continue to be subject to the limitations ''imposed by the Controlled Substances Act, 21 U.S.C. 801, *et seq.,* on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law and policy.'' Any change to the Controlled Substances Act or the creation of a working group is outside the scope of the proposed rule. We are not making any edits based on these comments.

One commenter was concerned that there might be insurance fraud on the part of health care providers who practice in one State and deliver health care services via telehealth in another State. VA health care providers would not directly engage in third party insurance claims. Moreover, billing is beyond the scope of this rulemaking. We are not making any edits based on this comment.

Another commenter said that VA does not allow for ''potential and applicable

copayments and deductibles to be collected at the time of service for eligible veterans receiving care or services.'' The commenter finds that not allowing this type of copayment collection is ''unworkable and contrary to medical office billing practices.'' We stated in the Supplementary Information paragraph of the proposed rule that ''Congress has authorized the Secretary to ''waive the imposition or collection of copayments for telehealth and telemedicine visits of veterans under the laws administered by the Secretary.'' See 38 U.S.C. 1722B.'' Also, under 38 CFR 17.108(e)(16), in-home video telehealth care is not subject to the collection of copayments. We are not making any edits based on these comments.

Several commenters expressed concern that beneficiaries may not have access to a computer or the internet. The commenters were concerned that these beneficiaries would not be able to access health care via telehealth because of the lack of technology in the beneficiary's home. Another commenter was concerned that there might be potential connectivity issues in rural areas due to limited access to broadband internet. A commenter questioned whether VA would assist a beneficiary in setting up the telehealth services or provide financial assistance for the equipment or internet access. A commenter requested that VA clarify whether electronic information or telecommunications technologies includes video conferencing and telephone. VA continues to look into solutions to resolve technical difficulties in its expansion of telehealth services. This rulemaking addresses one critical barrier to standardizing service availability via telehealth, inclusive of video conferencing, telephone, and other telecommunication technologies, but does not address all barriers, including the access to technology. We are not making any edits based on these comments.

A commenter questioned how the proposed rule would be affected by another proposed rule on Prosthetic and Rehabilitative Items and Services and how this other rule would impact telehealth service provision of certain equipment and services. The proposed rule does not address how VA would provide equipment used in telehealth visits. The provision of telehealth equipment is beyond the scope of the proposed rule. We are not making any edits based on this comment.

A commenter asked whether VA would offer ''cyber-clinical rooms'' in VA medical facilities to provide telehealth services. Where beneficial, VA will equip space for telehealth assessments. We are not making any edits based on this comment.

One commenter questioned how the beneficiary will know if telehealth is available to them for their health care needs. As previously said in this final rule, telehealth enhances the accessibility of VA health care by providing beneficiaries an additional option through which they can engage in the VA health care system. The rulemaking leaves the discussion about the health care modality chosen to the health care provider and the beneficiary. Also neither this final rule nor the proposed rule prescribe the details of how the telehealth program will be further implemented. We are not making any edits based on this comment.

One commenter was concerned that the proposed rule did not address how a ''potential emergent situation would be addressed in situations where neither party is located at a VA medical center or other clinical site especially if the telehealth encounter occurs across state lines.'' The commenter stressed that VA should evaluate its protocols on telehealth to ensure continued patient safety, including having a back-up plan in case of an emergent situation, identifying a family member or other individual as a point of contact if the beneficiary experiences a crisis, and other types of local assistance for the beneficiary. VA has standard guidance to address emergent situations when providers and beneficiaries are not located at a VA medical facility or other clinical site, including when the telehealth visit occurs across State lines. A specific example of emergency management guidance is that health care providers are trained to have emergency contact information at the onset of video appointments for use in the event of an emergency. We are not making any edits based on this comment.

One commenter expressed multiple concerns with the proposed rule. The commenter expressed concern that technology is necessary to utilize telehealth and that some beneficiaries may not want to use the technology while others may not be able to. The commenter felt that it was not fair to give beneficiaries the opportunity to have more access to health care by a means that they do not know how to use or do not want to use. We reiterate that the health care provider and the beneficiary will determine whether telehealth is appropriate in each individual situation; VA will not require telehealth. While we acknowledge the commenter's concern, VA believes that the health care provider and the beneficiary are in the best position to make decisions about the risks and benefits of any health care decision and will ultimately decide the best option for the delivery of such care. Moreover, allowing willing beneficiaries to participate in telehealth should increase the availability of in-person visits for those beneficiaries who prefer that option.

Second, the commenter questioned authority VA has to override the State laws. The commenter said that in the absence of a specific mandate by Congress, this rule is an arbitrary agency action. The commenter explained that the Non-Delegation Doctrine prohibits Congress from delegating legislative powers to Federal agencies and that the Federal agency can only use those powers that Congress has chosen to give them in an enabling act. The commenter cited Executive Order 13132 and quoted portions from Section 4(a) and 4(c). Specifically, the commenter said, ''[t]here has to be a federal statute that: 'contains an express preemption provision or . . . some other clear evidence that Congress intended preemption of State law'. It follows: 'Any regulatory preemption of State law shall be restricted to the minimal level necessary . . .' ''

VA disagrees that we lack authority for this action. As explained in the proposed rule, Section 4(b) of Executive Order 13132 allows agencies to preempt State law so long as the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.

Here, the exercise of a State's authority directly conflicts with the exercise of Federal authority under the Federal statue. Specifically, a State rule limiting telehealth directly conflicts with VA's authority under 38 U.S.C. 7401–7464 to establish the qualifications for VA's health care providers and otherwise regulate the professional activities of those individuals (*i.e.,* allow its health care providers to practice telehealth anywhere). As previously mentioned in this rulemaking, Congress has required the Secretary ''to carry out an initiative of teleconsultation for the provision of remote mental health and traumatic brain injury assessments in facilities of the Department'' and has otherwise required or authorized the use of telehealth by VA. See, *e.g.,* 38 U.S.C. 1709A(a)(1).

As to the commenter's citation to Section 4(c) of Executive Order 13132, which limits pre-emption to the minimum level needed to achieve the objectives of the statutes, VA believes

that this final rule is restricted to the minimum level necessary to support its telehealth program. In particular, VA explicitly limited the scope of the rule to only allow its health care providers to practice telehealth anywhere. VA did not expand the scope of the rule to more generally allow its health care providers to practice beyond what is required or authorized by Federal law and regulations or as defined in the laws and practice acts of the health care provider's State of licensure, registration or certification.

Finally, the commenter said that the Veterans E-Health and Telemedicine Support (VETS) Act of 2017 was introduced into the United States Senate in April 2017 and that it had not been approved by Congress or signed by the President. The commenter did not request that any changes be made to the regulation in light of the proposed legislation, nor did the commenter say that the final rule should not be published as a result of the proposed legislation. While legislative action would resolve any ambiguity as to VA's authority in this matter, the introduction of a piece of legislation is not evidence that VA does not already have authority in this area. VA has adequate authority for this rulemaking as described above and in the proposed rule. We make no edits to the rule based on this comment.

Another commenter expressed concern that this rule was being implemented without clear direction from Congress and with an abbreviated comment period. As previously explained, an express mandate from Congress is not necessary for VA to regulate on this topic. In addition, although the period for public comment for this rule was 30 days instead of 60 days, VA determined that it was against public interest and the health and safety of VA beneficiaries to have the 60 day comment period, for the reasons specified in the proposed rule. Moreover, in compliance with Executive Order 13132 (Federalism), VA officially started consulting with State officials on July 12, 2017, well over 60 days prior to the publication of the rule. Therefore, the stakeholders most invested in the rule had more than 3 months to provide feedback to VA, and the majority of their comments supported the rule.

The commenter also said that specific clarifications and additions are necessary to the rule. The commenter listed five criteria: (1) The standard of care must remain the same regardless of whether the services are provided via telehealth or in person; (2) eye and vision telehealth services cannot replace an in-person comprehensive eye examination; (3) the use of eye and vision telehealth may be appropriate for only certain uses that may be extended as new technologies are made available; (4) the use of eye and vision telehealth is not appropriate for establishing the doctor-patient relationship, for initial diagnosis, as a replacement for recommended face-to-face interactions, or as a replacement for partial or entire categories of care; and (5) screening for specific or groups of eye health issues using telehealth for direct-to-patient eye and vision-related applications should not be used to diagnose eye health conditions or as a replacement or replication for a comprehensive dilated eye examination. VA appreciates the commenter's specific suggestions for when telehealth is most appropriate for vision and eye care; however, the commenter's request for clarification is beyond the scope of this rulemaking. This rulemaking does not establish requirements for when telehealth will be used nor does it establish criteria that must be met for a beneficiary to seek health care via telehealth. Instead, this rulemaking allows VA health care providers to practice telehealth regardless of their location or the location of the beneficiary. VA will make determinations on when the use of telehealth (*i.e.,* vision/eye care and the like) will be appropriate outside of this rule. As such, the commenter's requested suggestions are beyond the scope of the rulemaking.

Similarly, the commenter expressed concern regarding the standard of care and how to best ensure patient safety when telehealth is used. The commenter provided examples of how various jurisdictions addressed this concern. The commenter also said that a ''one-size-fits-all approach'' would be a step backwards and that at any point in the diagnosis and care continuum the patient should have the right to choose in-person care. The commenter recommended that VA ensure that all beneficiaries are aware that they can choose between telehealth or in-person care at any point. To ensure beneficiaries are apprised of their rights, the commenter recommended that VA require beneficiaries to sign an informed consent form. VA reiterates that this rulemaking is narrowly tailored to clarify the authority of VA health care providers to practice telehealth within the scope of their VA employment. The rulemaking does not establish the criteria for beneficiaries to participate in the telehealth program nor does it authorize a lower standard of care for patients who choose to receive service via telehealth. Accordingly, the commenter's suggestions are beyond the scope of the rule.

The commenter also said that, in the absence of a true mandate by Congress, it is critical that VA consider the most recent statutory actions from Congress related to telehealth. The commenter then suggested that VA incorporate additional language from the 21st Century Cures Act (Pub. L. 114–255) into VA's definition of telehealth. The commenter quoted the following language from the Act (section 4012(c), 130 Stat 1033, 1187–8).

> (c) Sense of Congress.—It is the sense of Congress that—. . . (2) any expansion of telehealth services under the Medicare program under title XVIII of such Act should—(A) recognize that telemedicine is the delivery of safe, effective, quality health care services, by a health care provider, using technology as the mode of care delivery; (B) meet or exceed the conditions of coverage and payment with respect to the Medicare program if the service was furnished in person, including standards of care, unless specifically addressed in subsequent legislation; and (C) involve clinically appropriate means to furnish such services.

VA has considered the language in the Act, but finds that it is beyond the scope of this rulemaking. We make no edits to the rule based on this comment.

We are making several minor revisions from the proposed rule. We said in the proposed rule that we would revise the undesignated center heading immediately after § 17.412 to read Authority of Health Care Providers to Practice in the Department. However, in order to maintain consistency in terminology we are amending the undesignated center heading by removing the term ''Department'' and adding in its place ''VA.'' We are not making any edits to the meaning of the language in the proposed rule.

We said in the proposed rule that the title of new § 17.417 would be ''Health care providers.'' However, because this rule addresses health care providers practicing telehealth, we are revising the title of § 17.417 to now read ''Health care providers practicing via telehealth.'' We are similarly revising the title of paragraph (b) from ''Health care provider's practice'' to now read ''Health care provider's practice via telehealth.'' We are not making any edits to the meaning of the language in the proposed rule.

We said in proposed paragraph (a)(2)(iii) that a health care provider was an individual who ''Maintains credentials (*e.g.,* a license, registration, or certification) in accordance with the requirements of his or her medical specialty as identified under 38 U.S.C. 7402(b).'' In order to maintain

consistency in terminology within this section, we are amending paragraph (a)(2)(iii) by removing the term ''medical specialty'' and adding in its place health care specialty. We are making a similar amendment to paragraph (c) by removing the term ''medical and hospital care'' and adding in its place ''health care and hospital services.'' We are not making any edits to the meaning of the language in the proposed rule.

Proposed paragraph (b)(1) said, in part, ''telehealth services, within their scope of practice and in accordance with privileges granted to them by the Department . . .''. However, in order to maintain consistency in terminology within this section, we are amending paragraph (b)(1) by removing the term ''Department'' and adding in its place ''VA.'' We are also adding the term ''functional statement'' and replacing ''and'' with ''and/or'' when describing when health care providers can provide telehealth services. Health care providers practice in accordance with their functional statement or scope of practice (for those not granted privileges) or privileges granted to them by VA; as such, we consider these clarifying revisions. We are not making any edits to the meaning of the language in the proposed rule.

Based on the rationale set forth in the **SUPPLEMENTARY INFORMATION** to the proposed rule and in this final rule, VA is adopting the proposed rule with the edits discussed in this final rule.

Executive Order 13132, Federalism

Section 4 of Executive Order 13132 (Federalism) requires an agency that is publishing a regulation that preempts State law to follow certain procedures. Section 4(b) requires agencies to ''construe any authorization in the statute for the issuance of regulations as authorizing preemption of State law by rulemaking only when the exercise of State authority directly conflicts with the exercise of Federal authority under the Federal statute or there is clear evidence to conclude that the Congress intended the agency to have the authority to preempt State law.'' Section 4(c) states ''Any regulatory preemption of State law shall be restricted to the minimum level necessary to achieve the objectives of the statute pursuant to which the regulations are promulgated.'' Section 4(d) requires that when an agency ''foresees the possibility of a conflict between State law and Federally protected interests within its area of regulatory responsibility, the agency shall consult, to the extent practicable, with appropriate State and local officials in an effort to avoid such a conflict.'' Section 4(e) requires that when an agency ''proposes to act through adjudication or rulemaking to preempt State law, the agency shall provide all affected State and local officials notice and an opportunity for appropriate participation in the proceedings.'' Section 6(c) states that ''To the extent practicable and permitted by law, no agency shall promulgate any regulation that has federalism implications and that preempts State law, unless the agency, prior to the formal promulgation of the regulation, (1) consulted with State and local officials early in the process of developing the proposed regulation; (2) in a separately identified portion of the preamble to the regulation as it is to be issued in the **Federal Register**, provides to the Director of the Office of Management and Budget a federalism summary impact statement, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met; and (3) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by State and local officials.''

Because this final rule preempts certain State laws, VA consulted with State officials in compliance with sections 4(d) and (e), as well as section 6(c) of Executive Order 13132. VA sent a letter to the National Governor's Association, Association of State and Provincial Psychology, National Council of State Boards of Nursing, Federation of State Medical Boards, Association of Social Work Boards, and National Association of State Directors of Veterans Affairs on July 12, 2017, to notify them of VA's intent to allow VA health care providers to practice telehealth irrespective of the location of the health care provider or beneficiary in any State and regardless of State telehealth restrictions. In addition, the Director of the Federation of State Medical Boards solicited comments and input from the nation's State Medical Boards. The Wisconsin Medical Examining Board unanimously passed a motion in support of the rule. The Rhode Island Board of Medical Licensure & Discipline (BMLD) responded to our letter by saying that BMLD considers physicians employed by VA to be exempt from license requirements as long as such physician maintains a valid license in another U.S. jurisdiction. BMLD also indicated that the exemption does not necessarily extend to prescribing controlled substances without an appropriate DEA registration. In response to that issue, we said in the proposed rule that, if finalized, VA health care providers would be subject to ''the limitations imposed by the Controlled Substances Act, 21 U.S.C. 801, *et seq.,* on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law and policy.'' The State of Utah Department of Commerce also said that the Utah Occupations and Professions Licensing Act exempts from licensure requirements in Utah physicians, physician assistants, advanced practice nurses, psychologists or other health care providers who provide telehealth services as part of their VA employment as long as such health care provider is licensed in any State. Utah supports VA's efforts to enhance telehealth services to all veterans. The Florida Board of Medicine said that Florida does not prohibit the practice of telehealth except in certain circumstances and provided as an example that an in-person examination is required each time a physician issues a certification for medical marijuana. This final rule supersedes any State requirement regarding the practice of telehealth, such as the in-person examination requirement in Florida, and would maintain the restrictions imposed by Federal law and policy regarding the prescription of controlled substances. The North Carolina Medical Board recognizes the shortage of psychiatric care in rural and medically underserved communities and supports VA's initiative.

The President of the National Association of State Directors of Veterans Affairs (NASDVA) sent an email to all of its State directors informing the directors of the association's intent to fully support VA's initiative. NASDVA also formally responded to our letter, and supports VA's plans to amend its regulations and enhance access to health care via telehealth services. The National Council of State Boards of Nursing (NCSBN) supports VA's initiative for health care providers to deliver services via telehealth, as long as such providers maintain a valid State license. However, the NCSBN does not support expanding VA State licensure exemptions to personal services contractors who practice telehealth. We said in the proposed rulemaking that VA contractors would not be permitted to practice telehealth services beyond what

is authorized by their State license, certification, or registration, and that has not changed in this final rule.

The Chief Executive Officer of the Association of State and Provincial Psychology Boards formally responded to our letter and indicated that this rule aligns with their current initiatives, specifically, Psychology Interjurisdictional Compact (PSYPACT) legislation, which has been adopted in three jurisdictions and is under active consideration in many more States. The PSYPACT legislation allows psychologists to provide telepsychology services across State lines via a compact without obtaining additional licenses. The Chief Executive Officer further said that these services will assist in addressing the delivery of telehealth services to veterans.

The Veterans' Rural Health Advisory Committee (VRHAC) formally submitted a letter in support of the proposed rule. The letter said that although VA leads the way in being the largest provider of telehealth in the country, there are barriers that affect many rural and highly rural areas, which includes limited internet or cellular access with sufficient bandwidth to support the required applications and also State legislations that restrict the practice of telehealth across State lines or into a veteran's home. The commenter supports the proposed rule and further adds that expanding telehealth to rural and highly rural veterans across State lines would strengthen the delivery of care to enrolled veterans who live in rural and highly rural areas and supports the critical need for access to mental health care.

The West Virginia Board of Osteopathic Medicine responded to VA's letter and indicated that West Virginia has made legislative changes to encourage physician participation in the VA system. The commenter said that W.Va. Code 30–14–12c authorizes the West Virginia licensing boards to issue a license to a physician licensed in another State via reciprocity when the applicant presents proof that they are a VA employee working in a VA medical facility that is located in a county where a nursing home is operated by the West Virginia Department of Veteran's Assistance. Also, W.Va. Code 30–14–12d states the requirements for practicing telemedicine in West Virginia and defines that the practice of medicine occurs where the patient is located and defines what constitutes a physician-patient relationship. The commenter said that the West Virginia Board of Osteopathic Medicine rarely knows when a VA physician is practicing in West Virginia without a West Virginia State license. However, the commenter cautioned that if a VA physician is licensed in West Virginia and does not follow state law and such action becomes known to the Board, the Board would file a complaint and investigate such action. The commenter said that their telehealth law was written to protect patients and indicated that veterans deserved the same high quality care. As we stated in the proposed rule, we are preempting State law as it applies to health care providers who practice telehealth while acting within the scope of their VA employment, and that has not changed in this final rule.

The Pennsylvania State Board of Medicine responded to VA's letter and acknowledged the potential value for telehealth to expand access to health care, especially in rural and underserved areas. The commenter further stated that Pennsylvania law on the Interstate Medical Licensure Compact affirms that the practice of medicine occurs where the patient is located at the time of the health care encounter, which requires the physician to be under the jurisdiction of the State medical board where the patient is located. The commenter indicated that VA has oversight of its health care providers, however, the foundational principle that the physician should be licensed where the patient is located helps to assure the safety, quality, and accountability of the care provided. This rule preempts State law as it applies to health care providers who practice telehealth while acting within the scope of their VA employment.

The Michigan Department of Licensing and Regulatory Affairs responded to VA's letter by stating that Michigan law does not require a VA health care provider to hold a Michigan State license in the discharge of official duties in a VA facility. The commenter also stated that telehealth at a VA medical facility would be permitted. However, if the health care provider is delivering care to the beneficiary's home, such provider would need a Michigan State license. As we indicated in the proposed rule, VA preempts State law as it applies to health care providers who practice telehealth while acting within the scope of their VA employment, and that has not changed in this final rule.

The Virginia Board of Medicine responded to VA's letter by stating that the Executive Committee of the Board met and supported the enhancement of access to care for veterans. The commenter stated that the proposed rule should benefit many beneficiaries that have little or no access to health care.

The comments provided above were placed on *Regulations.gov* for public inspection during the comment period. Stakeholders also had an opportunity to provide comments during the notice and comment period.

This final rule complies with Executive Order 13132 by (1) identifying where the exercise of State authority would directly conflict with the rule; (2) limiting preemption to these areas of conflict; (3) restricting preemption to the minimum level necessary to achieve the objectives of the statutes pursuant to which the rule is promulgated; (4) consulting with the external stakeholders listed in this rule; and (5) providing opportunity for all affected State and local officials to comment on this final rulemaking.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rule, represents VA's implementation of its legal authority on this subject. Other than future amendments to this rule or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rule if possible. If not possible, such guidance is superseded by this rule.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals who are VA employees and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review)

emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' requiring review by the Office of Management and Budget (OMB), unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

OMB has determined that this is a significant regulatory action under Executive Order 12866 because of the policy implications. This final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this final rule can be found in the rule's economic analysis. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published from FY 2004 Through Fiscal Year to Date.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, requires that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are: 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service; 64.013, Veterans Prosthetic Appliances; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; 64.039, CHAMPVA; 64.040, VHA Inpatient Medicine; 64.041, VHA Outpatient Specialty Care; 64.042, VHA Inpatient Surgery; 64.043, VHA Mental Health Residential; 64.044, VHA Home Care; 64.045, VHA Outpatient Ancillary Services; 64.046, VHA Inpatient Psychiatry; 64.047, VHA Primary Care; 64.048, VHA Mental Health Clinics; 64.049, VHA Community Living Center; and 64.050, VHA Diagnostic Care.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 6, 2018, for publication.

Dated: May 8, 2018.

Consuela Benjamin,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set forth in the preamble, we are amending 38 CFR part 17 as follows:

PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended by adding an entry for § 17.417 in numerical order to read in part as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

* * * * *

Section 17.417 also issued under 38 U.S.C. 1701 (note), 1709A, 1712A (note), 1722B, 7301, 7330A, 7401–7403, 7406 (note).

* * * * *

■ 2. Revise the undesignated center heading immediately after § 17.412 to read as follows:

Authority of Health Care Providers to Practice in VA

■ 3. Add § 17.417 to read as follows:

§ 17.417 Health care providers practicing via telehealth.

(a) *Definitions.* The following definitions apply to this section.

(1) *Beneficiary.* The term beneficiary means a veteran or any other individual receiving health care under title 38 of the United States Code.

(2) *Health care provider.* The term health care provider means an individual who:

(i) Is licensed, registered, or certified in a State to practice a health care specialty identified under 38 U.S.C. 7402(b);

(ii) Is appointed to an occupation in the Veterans Health Administration that is listed in or authorized under 38 U.S.C. 7401(1) or (3);

(iii) Maintains credentials (*e.g.,* a license, registration, or certification) in accordance with the requirements of his or her health care specialty as identified under 38 U.S.C. 7402(b); and

(iv) Is not a VA-contracted health care provider.

(3) *State.* The term State means a State as defined in 38 U.S.C. 101(20), or a political subdivision of such a State.

(4) *Telehealth.* The term telehealth means the use of electronic information or telecommunications technologies to support clinical health care, patient and professional health-related education, public health, and health administration.

(b) *Health care provider's practice via telehealth.* (1) Health care providers may provide telehealth services, within their scope of practice, functional statement, and/or in accordance with privileges granted to them by VA, irrespective of the State or location within a State where the health care provider or the beneficiary is physically located. Health care providers' practice is subject to the limitations imposed by the Controlled Substances Act, 21 U.S.C. 801, *et seq.,* on the authority to prescribe or administer controlled substances, as well as any other limitations on the provision of VA care set forth in applicable Federal law and policy. This section only grants health care providers the ability to practice telehealth within the scope of their VA employment and does not otherwise

grant health care providers additional authorities that go beyond what is required or authorized by Federal law and regulations or as defined in the laws and practice acts of the health care providers' State license, registration, or certification.

(2) Situations where a health care provider's VA practice of telehealth may be inconsistent with a State law or State license, registration, or certification requirements related to telehealth include when:

(i) The beneficiary and the health care provider are physically located in different States during the episode of care;

(ii) The beneficiary is receiving services in a State other than the health care provider's State of licensure, registration, or certification;

(iii) The health care provider is delivering services in a State other than the health care provider's State of licensure, registration, or certification;

(iv) The health care provider is delivering services either on or outside VA property;

(v) The beneficiary is receiving services while she or he is located either on or outside VA property;

(vi) The beneficiary has or has not previously been assessed, in person, by the health care provider; or

(vii) Other State requirements would prevent or impede the practice of health care providers delivering telehealth to VA beneficiaries.

(c) *Preemption of State law.* To achieve important Federal interests, including, but not limited to, the ability to provide the same complete health care and hospital service to beneficiaries in all States under 38 U.S.C. 7301, this section preempts conflicting State laws relating to the practice of health care providers when such health care providers are practicing telehealth within the scope of their VA employment. Any State law, rule, regulation or requirement pursuant to such law, is without any force or effect on, and State governments have no legal authority to enforce them in relation to, this section or decisions made by VA under this section.

[FR Doc. 2018–10114 Filed 5–10–18; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2017–0550; FRL–9977–93—Region 4]

Air Plan Approval; KY; Fine Particulate Matter and Ozone NAAQS Revisions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve portions of State Implementation Plan (SIP) revisions submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality, on December 21, 2016, and August 29, 2017, on behalf of the Louisville Metro Air Pollution Control District (District). The changes to the SIP that EPA is taking final action to approve are the portions of the submittals that modify the District's Ambient Air Quality Standards regulation, specifically changes to the District's air quality standards for fine particulate matter ($PM_{2.5}$) and ozone to reflect the 2012 $PM_{2.5}$ and 2015 ozone national ambient air quality standards (NAAQS). EPA has determined that the December 21, 2016, and August 29, 2017, SIP revisions are consistent with the Clean Air Act (CAA or Act). EPA will act on the other portions of the December 21, 2016, and August 29, 2017, submittals in a separate action.

DATES: This rule will be effective June 11, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2017–0550. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person 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 Federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Sanchez can be reached via telephone at (404) 562–9644 or via electronic mail at *sanchez.madolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Sections 108 and 109 of the CAA govern the establishment, review, and revision, as appropriate, of the NAAQS to protect public health and welfare. The CAA requires periodic review of the air quality criteria—the science upon which the standards are based—and the standards themselves. EPA's regulatory provisions that govern the NAAQS are found at 40 CFR 50—*National Primary and Secondary Ambient Air Quality Standards.*

In a proposed rulemaking published on February 8, 2018 (83 FR 5593), EPA proposed to approve into the Kentucky SIP the portions of the revisions to the Jefferson County [1] air quality regulations addressing Regulation 3.01, *Ambient Air Quality Standards,* submitted by the Commonwealth on December 21, 2016, and August 29, 2017. Regulation 3.01 is amended [2] by updating air quality standards in Section 7 for $PM_{2.5}$ and ozone to reflect the most recent NAAQS, removing the numbering of the subsections in Section 7, and making textual modifications to the footnotes. The details of Kentucky's submissions and the rationale for EPA's action are explained in the proposed rulemaking. Comments on the proposed rulemaking were due on or before March 12, 2018.

[1] In 2003, the City of Louisville and Jefferson County governments merged and the ''Jefferson County Air Pollution Control District'' was renamed the ''Louisville Metro Air Pollution Control District.'' However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading ''Air Pollution Control District of Jefferson County.'' Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in the Jefferson County portion of the Kentucky SIP as the ''Jefferson County'' regulations.

[2] The District refers to the revised version of Regulation 3.01 in its December 21, 2016, submittal as ''Version 6'' and the revised version of Regulation 3.01 in its August 29, 2017, submittal as ''Version 7.'' Upon EPA's final approval of changes to Regulation 3.01, the text of the regulation in the SIP will reflect Version 7.

EPA did not receive any relevant comments on the proposed action.

II. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Jefferson County Regulation 3.01, *Ambient Air Quality Standards,* effective September 21, 2016, and February 15, 2017, which was revised to be consistent with the current NAAQS. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[3]

III. Final Action

EPA is taking final action to approve portions of the Commonwealth of Kentucky's SIP revisions submitted on December 21, 2016, and August 29, 2017, because these revisions are consistent with the CAA. The submissions revise the District's air quality standards for $PM_{2.5}$ and ozone to reflect the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

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, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 10, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: April 30, 2018.

Onis ''Trey'' Glenn, III

Regional Administrator, Region 4.

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 S—Kentucky

■ 2. Section 52.920(c), Table 2 is amended under Reg 3—Ambient Air Quality Standards by revising the entry for ''3.01 Ambient Air Quality Standards'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

* * * * *

[3] 62 FR 27968 (May 22, 1997).

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
*	*	*	*	*	*
			Reg 3—Ambient Air Quality Standards		
3.01	Ambient Air Quality Standards.	5/11/2018	[Insert citation of publication]	02/15/17	
*	*	*	*	*	*

* * * * *

[FR Doc. 2018–09991 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–HQ–OAR–2018–0170; FRL–9977–90–OAR]

RIN 2060–AU02

Extension of Deadline for Action on the Section 126(b) Petition From New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the Environmental Protection Agency (EPA) is determining that 60 days is insufficient time to complete the technical and other analyses and public notice-and-comment process required for our review of a petition dated March 12, 2018, submitted by the state of New York pursuant to section 126(b) of the Clean Air Act (CAA). The petition requests that the EPA make a finding that emissions from the collection of identified sources in nine states (Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia) significantly contribute to and interfere with maintenance of the 2008 and 2015 ozone national ambient air quality standards (NAAQS) in New York State. Under section 307(d)(10) of the CAA, the EPA is authorized to grant a time extension for responding to a petition if the EPA determines that the extension is necessary to afford the public, and the Agency, adequate opportunity to carry out the purposes of the section 307(d) notice-and-comment rulemaking requirements. By this action, the EPA is making that determination. The EPA is, therefore, extending the deadline for acting on the petition from May 13, 2018, to no later than November 9, 2018.

DATES: This final rule is effective on May 11, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0170. 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 or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Lev Gabrilovich, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Air Quality Policy Division, Mail Code C539–01, Research Triangle Park, NC 27711, telephone (919) 541–1496; email at *gabrilovich.lev@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Legal Standard

This is a procedural action to extend the deadline for the EPA to respond to a petition from the state of New York filed pursuant to CAA section 126(b). The EPA received the petition on March 14, 2018. The petition requests that the EPA make a finding under section 126(b) of the CAA that emissions from the collection of identified sources in nine states (Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia) significantly contribute to and interfere with maintenance of the 2008 and 2015 ozone NAAQS in New York in violation of the provisions of section 110(a)(2)(D)(i) of the CAA, also known as the ''good neighbor'' provisions.

Section 126(b) of the CAA authorizes states to petition the EPA to find that a major source or group of stationary sources in upwind states emits or would emit any air pollutant in violation of the prohibition of CAA section 110(a)(2)(D)(i) [1] by contributing significantly to nonattainment or interfering with maintenance problems in downwind states. Section 110(a)(2)(D)(i)(I) of the CAA prohibits emissions of any air pollutant in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any NAAQS. Under CAA section 126(c), any existing sources for which the EPA makes the requested finding must cease operations within 3 months of the finding, except that the source may continue to operate if it complies with emission limitations and compliance schedules (containing increments of progress) that the EPA may provide to bring about compliance with the applicable requirements as expeditiously as practical but no later than 3 years from the date of the finding.

The CAA section 126(b) petition from the state of New York requests that the EPA make a finding that, within each of the identified nine upwind states, certain sources within the electric generating unit (EGU) and non-EGU sectors collectively emit air pollutants in violation of CAA section 110(a)(2)(D)(i) with respect to the 2008 8-hour ozone NAAQS, set at 0.075 parts per million (ppm), and the revised 2015 8-hour ozone NAAQS, set at 0.070 ppm.[2]

Pursuant to CAA section 126(b), the EPA must make the finding requested in the petition or must deny the petition within 60 days of its receipt and after holding a public hearing. In addition to the public hearing provisions in CAA section 126(b), the EPA's action under

[1] The text of CAA section 126 codified in the United States Code cross references CAA section 110(a)(2)(D)(ii) instead of CAA section 110(a)(2)(D)(i). The courts have confirmed that this is a scrivener's error and the correct cross reference is to CAA section 110(a)(2)(D)(i). *See Appalachian Power Co.* v. *EPA, 249 F.3d 1032, 1040–44 (DC Cir. 2001).*

[2] On October 1, 2015, the EPA strengthened the ground-level ozone NAAQS, based on extensive scientific evidence about ozone's effects on public health and welfare. *See* 80 FR 65291 (October 26, 2015).

CAA section 126 is also subject to the procedural requirements of CAA section 307(d). *See* CAA section 307(d)(1)(N). One of these requirements is notice-and-comment rulemaking, under section 307(d)(3)–(6). Section 307(d)(3) of the CAA provides minimum requirements for the contents of a proposed action subject to 307(d), including summarizing the methodology used in analyzing data on which the proposed action is based and the major legal interpretations and policy considerations underlying the proposal. CAA section 307(d)(6) requires that the final action be equally detailed and include an explanation of any major changes from proposal and a response to each significant comment received.

With respect to the public hearing, the EPA must provide sufficient notice to the public. The Federal Register Act identifies 15 days' notice as the timeframe presumed to be sufficient notice to the public in advance of a public hearing. *See* 44 U.S.C. Section 1508. CAA section 307(d)(5) also provides specific direction for the conduct of public hearings, requiring at (iv), that ''the Administrator shall keep the record of [the public hearing] open for thirty days after the completion of the proceeding to provide for an opportunity for submission of rebuttal and supplementary information.''

In sum, the statutory requirements governing the EPA's action on a CAA section 126(b) petition necessitate the following procedural steps: Conducting technical, legal, and policy review of a submitted petition; developing an adequate proposal; providing sufficient notice of a public hearing; holding the public hearing; allowing sufficient time for notice and comment on both the proposal and public hearing record and developing responses to comments received and a final action on the petition.

Section 307(d)(10) of the CAA provides for a time extension, under certain circumstances, for a rulemaking subject to section 307(d). Specifically, CAA section 307(d)(10) provides:

> Each statutory deadline for promulgation of rules to which this subsection applies which requires promulgation less than six months after date of proposal may be extended to not more than six months after date of proposal by the Administrator upon a determination that such extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of the subsection.

The EPA believes that the plain language of this provision allows the EPA to extend statutory deadlines for rulemakings enumerated in CAA section 307(d)(1) that are subject to deadlines with less than 6 months between a proposed and final action. The phrase ''which requires promulgation less than six months after date of proposal'' clearly specifies the type of deadline that may be extended, while the phrase ''may be extended to not more than six months after date of proposal'' limits the duration of an extension invoked under this provision. Notably, neither of these phrases, nor the provision in its entirety, impose any predicate steps on the EPA for invoking an extension other than determining that such an extension is necessary to afford the public, and the agency, adequate opportunity to carry out the purposes of CAA section 307(d).

To the extent the terms of this provision are ambiguous, the EPA believes its interpretation of these terms is reasonable. The stated purpose of this provision is to provide both the public and the EPA adequate opportunity to effectuate the objectives of CAA section 307(d) regarding rulemaking. Interpreting CAA section 307(d)(10) to require the EPA to take some substantive predicate rulemaking step in a shorter timeframe to invoke the 6-month extension would contradict the stated purpose of the extension, as taking a predicate action within such shorter timeframe risks undermining the same reasons for invoking the extension. For example, were the EPA required to issue a proposed action on a CAA section 126(b) petition within 60 days of receipt to invoke the 6-month extension, the EPA may risk inadequately meeting the requirements of CAA section 307(d)(3) governing the minimum contents of such proposal depending on the technical complexity of the petition and other factors involved in developing an adequate proposal. Given that the purpose of an extension under CAA section 307(d)(10) is, in part, to provide the EPA with adequate opportunity to meet the requirements of section 307(d), it follows that the extension should be available for both the EPA's proposed and final action on a section 126(b) petition.

Additionally, the EPA notes that CAA section 307(d)(1) does not speak to *when* the EPA must determine that an extension is necessary. The EPA acknowledges that the timeframes set out under CAA sections 126(b) and 307(d)(10) indicate Congress's clear intent that the EPA act quickly on a section 126 petition. Considering this intent, the EPA reasonably interprets CAA section 307(d)(10) to require the EPA to make the necessary determination in invoking a 6-month extension no later than the end of the original response time provided by section 126(b) for acting on a petition, which is 60-days from receipt. Such interpretation ensures that that the overall legal deadline for the EPA's action on a CAA section 126(b) petition does not exceed the aggregate eight-month deadline provided under the CAA (*i.e.,* 60 days provided under section 126(b) plus 6 months provided under section 307(d)(10)). Finally, under the EPA's reasonable reading of CAA section 307(d)(10), this extension may be invoked only once.

The EPA believes its reading of the extension provision under CAA section 307(d)(10) is consistent with Congress's dual intent of ensuring that the EPA acts expeditiously on a CAA section 126(b) petition and ensuring that the public has adequate opportunity to participate in the EPA's rulemaking process on such a petition. As described previously, the extension will allow the EPA to undertake the appropriate and necessary public participation processes, such as holding a public hearing on a proposed action on New York's petition.

Based on either a plain reading of the language, or, in the alternative, a reasonable reading of the provision in the event of ambiguity, CAA section 307(d)(10), therefore, may be applied to CAA section 126(b) rulemakings because the 60-day time limit under CAA section 126(b) necessarily limits the period for promulgation of a final rule after proposal to less than 6 months.

II. Final Rule

A. Rule

In accordance with CAA section 307(d)(10), the EPA is determining that the 60-day period afforded by CAA section 126(b) for responding to the petition from the state of New York is not adequate time to allow the public, and the agency, the opportunity to carry out the purposes of CAA section 307(d). In making this determination, the EPA has met the necessary steps to invoke a 6-month extension for acting on New York's CAA section 126(b) petition. Specifically, the 60-day period is insufficient time for the EPA to complete the necessary technical review of the petition, develop an adequate proposal, and allow time for notice and comment, including an opportunity for public hearing, on a proposed finding regarding whether emissions from the collection of identified EGU and non-EGU sources in nine states (Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, Virginia and West Virginia) significantly contribute to and interfere with maintenance of the 2008 and 2015 ozone NAAQS in New York

State. Moreover, the 60-day period is insufficient for the EPA to review and develop responses to any public comments on a proposed finding, or testimony supplied at a public hearing, and to develop and promulgate a final finding in response to the petition. Particularly, the timeframes for notice of the public hearing and duration of comment period after the hearing itself would consume 45 days (presuming 15 days' notice of the hearing, and a 30-day comment period thereafter), leaving a total of 15 days of the 60-day period to complete the previously identified steps needed to review the petition, develop a proposal, review and develop responses to any public comments on a proposed finding or testimony supplied at a public hearing, and to develop and promulgate a final finding in response to the petition. An appropriate schedule for action on the CAA section 126(b) petition must afford the EPA adequate time to prepare a proposal that clearly elucidates the issues to facilitate public comment, and must provide adequate time for the public to comment and for the EPA to review and develop responses to those comments prior to issuing the final rule. With this extension, the deadline for the EPA to act on the petition is revised from May 13, 2018, to November 9, 2018. The EPA does not intend to grant itself any further extension under this provision if upon expiration of this extension the EPA has not yet acted on New York's section 126(b) petition.

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

This document is a final agency action, but may not be subject to the notice-and-comment requirements of the APA, 5 U.S.C. 553(b). The EPA believes that, because of the limited time provided to the EPA to make a finding, the deadline for action on the CAA section 126(b) petition should be extended. Congress may not have intended such a determination to be subject to notice-and-comment rulemaking. However, to the extent that this determination otherwise would require notice and opportunity for public comment, there is good cause within the meaning of 5 U.S.C. 553(b)(3)(B) not to apply those requirements here. Providing for notice and comment would be impracticable because of the limited time provided for making this determination and would be contrary to the public interest because it would divert agency resources from the substantive review of the CAA section 126(b) petition.

C. Effective Date Under the APA

This action is effective on May 11, 2018. Under the APA, 5 U.S.C. 553(d)(3), agency rulemaking may take effect before 30 days after the date of publication in the **Federal Register** if the agency has good cause to mandate an earlier effective date. This action—a deadline extension—must take effect immediately because its purpose is to extend by 6 months the deadline for action on the petition. As discussed earlier, the EPA intends to use the 6-month extension period to develop a proposal on the petition and provide time for public comment before issuing the final rule. These reasons support an immediate effective date.

III. Statutory and Executive Order Reviews

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

This action is exempt from review by the Office of Management and Budget because it simply extends the date for the EPA to act on a petition.

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

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

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This good cause final action simply extends the date for the EPA to act on a petition and does not impose any new obligations or enforceable duties on any state, local or tribal governments or the private sector. It does not contain any recordkeeping or reporting requirements.

D. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice-and-comment rulemaking requirements under the APA, 5 U.S.C. 553, or any other statute. This rule is not subject to notice-and-comment requirements because the agency has invoked the APA good cause exemption under 5 U.S.C. 553(b).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications, as specified in Executive Order 13175. This good cause final action simply extends the date for the EPA to act on a petition. Thus, Executive Order 13175 does not apply to this rule.

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

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

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

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

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

The EPA believes that this action is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994) because it does not establish an environmental health or safety standard. This good cause final action simply extends the date for the EPA to act on a petition and does not have any impact on human health or the environment.

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. The CRA allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice-and-comment rulemaking procedures are impracticable, unnecessary or contrary to the public interest (5 U.S.C. 808(2)). The EPA has made a good cause finding for this rule as discussed in Section II.B of this document, including the basis for that finding.

IV. Statutory Authority

The statutory authority for this action is provided by sections 110, 126 and 307 of the CAA as amended (42 U.S.C. 7410, 7426 and 7607).

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practices and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone.

Dated: May 3, 2018.

E. Scott Pruitt,

Administrator.

[FR Doc. 2018–09892 Filed 5–8–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–1687–IFC]

RIN 0938–AT21

Medicare Program; Durable Medical Equipment Fee Schedule Adjustments To Resume the Transitional 50/50 Blended Rates To Provide Relief in Rural Areas and Non-Contiguous Areas

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period makes technical amendments to the regulation to reflect the extension of the transition period from June 30, 2016 to December 31, 2016 that was mandated by the 21st Century Cures Act for phasing in fee schedule adjustments for certain durable medical equipment (DME) and enteral nutrition paid in areas not subject to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP). In addition, this interim final rule with comment period amends the regulation to resume the transition period's blended fee schedule rates for items furnished in rural areas and non-contiguous areas (Alaska, Hawaii, and United States territories) not subject to the CBP from June 1, 2018 through December 31, 2018. This interim final rule with comment period also makes technical amendments to existing regulations for DMEPOS items and services to reflect the exclusion of infusion drugs used with DME from the DMEPOS CBP.

DATES:

Effective date: The provisions of this interim final rule with comment period are effective on June 1, 2018.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 9, 2018.

ADDRESSES: In commenting, please refer to file code CMS–1687–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1687–IFC, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1687–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Laurence Wilson, 410–786–4602 and *DMEPOS@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://regulations.gov.* Follow the search instructions on that website to view public comments.

Table of Contents

I. Executive Summary
A. Purpose
B. Summary of the Major Provisions
C. Summary of Costs and Benefits
II. Durable Medical Equipment, Prosthetics, Orthotics Supplies (DMEPOS) Fee Schedule and Competitive Bidding Program (CBP)
A. Background for Payment Revisions for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)
1. Fee Schedule Payment Basis for Certain DMEPOS
2. DMEPOS CBP
a. Payment Basis
b. Geographic Areas Designated Under the DMEPOS CBPs
B. Background on the Methodology for Adjusting Payment Amounts for Certain DMEPOS Using Information From DMEPOS CBPs
C. Transition Period for Phase-In of Fee Schedule Adjustments
1. Statutory Mandate To Reconsider Fee Schedule Adjustments
2. Fee Schedule Adjustment Impact Monitoring Data
3. Restoring Transitional Blended Fee Schedule Rates in Rural Areas and Non-Contiguous Areas
D. Fee Schedule Amounts for Accessories Used With Group 3 Complex Rehabilitative Power Wheelchairs
E. Technical Changes To Conform the Regulation to Section 5004(b) of the 21st Century Cures Act (the Cures Act): Exclusion of DME Infusion Drugs Under CBPs
III. Provisions of the Interim Final Rule With Comment Period
A. Transition Period for Phase-In of Fee Schedule Adjustments
B. Technical Changes To Conform the Regulation to Section 5004(b) of the Cures Act: Exclusion of DME Infusion Drugs Under CBPs
IV. Waiver of Proposed Rulemaking
V. Collection of Information Requirements
VI. Response to Comments
VII. Economic Analyses
A. Regulatory Impact Analysis
1. Introduction
2. Statement of Need
3. Overall Impact
B. Detailed Economic Analysis
a. Effects on the Medicare Program and Beneficiaries

b. Impact on Beneficiaries and Other Payers
c. Alternatives Considered
d. Regulatory Familiarization Costs
C. Accounting Statement
VIII. Regulatory Flexibility Act Analysis
IX. Unfunded Mandates Reform Act Analysis
X. Federalism Analysis
XI. Reducing Regulation and Controlling Regulatory Costs
XII. Congressional Review Act

I. Executive Summary

A. Purpose

This interim final rule with comment period amends the regulation at 42 CFR 414.210(g)(9) to reflect the extension of the transition period for phasing in fee schedule adjustments for certain durable medical equipment (DME) and enteral nutrition paid in areas not subject to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program (CBP) through December 31, 2016, mandated by section 16007(a) of the 21st Century Cures Act (the Cures Act) (Pub. L. 114–255). In addition, in light of information, the Centers for Medicare & Medicaid Services (CMS) has gathered in accordance with section 16008 of the Cures Act, this interim final rule with comment period resumes the transition period for phasing in adjusted fee schedule rates for DME items and services furnished in rural areas and non-contiguous areas (Alaska, Hawaii, and United States (U.S.) territories) not subject to the CBP from June 1, 2018 through December 31, 2018. It also makes technical amendments to existing regulations for DMEPOS items and services to reflect the exclusion of infusion drugs used with DME from the DMEPOS CBP, as required by section 5004(b) of the Cures Act.

B. Summary of the Major Provisions

• *Transition Period for Phase in of Adjustments to Fee Schedule Amounts:* We are amending § 414.210(g)(9)(i) to reflect the extension of the transition period to December 31, 2016 for phasing in adjustments to the fee schedule amounts for certain items based on information from the DMEPOS CBP that was required by section 16007(a) of the Cures Act. In addition, we are adding § 414.210(g)(9)(iii) to resume the fee schedule adjustment transition period in rural areas and non-contiguous areas effective June 1, 2018, in light of concerns regarding the impact of the full fee schedule adjustments in rural and non-contiguous areas, so that the 50/50 blended fee schedule rates will apply for certain items and services furnished in rural and non-contiguous areas from June 1, 2018 through December 31, 2018. We are also amending § 414.210(g)(9)(ii) to reflect that for items and services furnished with dates of service from January 1, 2017 to May 31, 2018, and on or after January 1, 2019, the fee schedule amount for the area is equal to 100 percent of the adjusted payment amount. We are soliciting comments on the resumption of the transition period for the phase in of fee schedule adjustments.

• *Technical Change Excluding DME Infusion Drugs From the DMEPOS CBP:* Section 5004(b) of the Cures Act amends section 1847(a)(2)(A) of the Social Security Act (the Act) to exclude drugs and biologicals described in section 1842(o)(1)(D) of the Act from the DMEPOS CBP. We are making conforming changes to the regulation to reflect the exclusion of infusion drugs, described in section 1842(o)(1)(D) of Act, from items subject to the DMEPOS CBP.

C. Summary of Costs and Benefits

This interim final rule with comment period resumes the blended adjusted Medicare fee schedule amounts during the transition period for certain items and services that are furnished in rural and non-contiguous areas not subject to the CBP beginning June 1, 2018. It is estimated that these adjustments will cost $290 million in Medicare benefit payments and $70 million in Medicare beneficiary cost sharing for the period beginning June 1, 2018 and ending December 31, 2018.

We are unable to quantify the benefits of this interim final rule with comment period at this time; however, the goal of this interim final rule is to preserve beneficiary access to DME items and services in rural and non-contiguous areas not subject to the CBP during a transition period in which CMS will continue to study the impact of the change in payment rates on access to items and services in these areas. The alternative to this interim final rule with comment period would have been to allow the full phase in of fee schedule adjustments based on competitive bidding prices to continue in all non-competitive bidding areas (non-CBAs). We believe that resuming the fee schedule adjustment transition period in rural and non-contiguous areas promotes stability in the DMEPOS market in these areas, and enables CMS to work with stakeholders to preserve beneficiary access to DMEPOS.

II. Durable Medical Equipment, Prosthetics, Orthotics Supplies (DMEPOS) Fee Schedule and Competitive Bidding Program (CBP)

A. Background for Payment Revisions for Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS)

1. Fee Schedule Payment Basis for Certain DMEPOS

Section 1834(a) of the Act governs payment for DME covered under Part B and under Part A for a home health agency and provides for the implementation of a fee schedule payment methodology for DME furnished on or after January 1, 1989. Sections 1834(a)(2) through (a)(7) of the Act set forth separate payment categories of DME and describe how the fee schedule for each of the following categories are established:

• Inexpensive or other routinely purchased items.
• Items requiring frequent and substantial servicing.
• Customized items.
• Oxygen and oxygen equipment.
• Other covered items (other than DME).
• Other items of DME (capped rental items).

Section 1834(h) of the Act governs payment for prosthetic devices, prosthetics, and orthotics (P&O) and sets forth fee schedule payment rules for P&O. Effective for items furnished on or after January 1, 2002, payment is also made on a national fee schedule basis for parenteral and enteral nutrition (PEN) in accordance with the authority under section 1842(s) of the Act. The term ''enteral nutrition'' will be used throughout this document to describe enteral nutrients, supplies and equipment covered under the Part B benefit for prosthetic devices defined at section 1861(s)(8) of the Act. The Medicare allowed amount for DMEPOS items and services paid on a fee schedule basis is equal to the lower of the supplier's actual charge or the fee schedule amount. We refer readers to the November 6, 2014 calendar year (CY) 2015 ESRD PPS final rule entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies'' (79 FR 66223 through 66233) for additional background discussion about DMEPOS items subject to section 1834 of the Act, rules for calculating reasonable charges, and fee schedule payment methodologies for PEN and for DME prosthetic devices, prosthetics, orthotics, and surgical dressings.

2. DMEPOS CBP

a. Payment Basis

The DMEPOS CBP is mandated by section 1847(a) of the Act and requires the Secretary of the Department of Health and Human Services (the Secretary) to establish and implement CBPs in competitive bidding areas (CBAs) throughout the U.S for contract award purposes for the furnishing of certain competitively priced DMEPOS items and services. Section 1847(a)(2) of the Act describes the items and services subject to the DMEPOS CBP:

- Off-the-shelf (OTS) orthotics for which payment would otherwise be made under section 1834(h) of the Act.
- Enteral nutrients, equipment and supplies described in section 1842(s)(2)(D) of the Act.
- Certain DME and medical supplies, which are covered items (as defined in section 1834(a)(13) of the Act) for which payment would otherwise be made under section 1834(a) of the Act.

The DME and medical supplies category includes items used in infusion and drugs (other than inhalation drugs) and supplies used in conjunction with DME, but excludes devices that have been classified in class III under the Federal Food, Drug, and Cosmetic Act and Group 3 or higher complex rehabilitative power wheelchairs and related accessories when furnished in connection with such wheelchairs. Although initially identified in section 1847(a)(2) of the Act, infusion drugs were excluded from the DMEPOS CBP by section 5004(b) of the Cures Act. Sections 1847(a) and (b) of the Act specify certain requirements and conditions for implementation of the Medicare DMEPOS CBP.

Under the DMEPOS CBP, Medicare sets single payment amounts (SPAs) for selected DMEPOS items and services furnished to beneficiaries in CBAs based on the median of bids submitted by winning suppliers and accepted by Medicare for each individual item and service. For competitively bid items and services furnished in a CBA, the SPAs replace the Medicare allowed amounts established using the lower of the supplier's actual charge or the payment amount recognized under sections 1834(a)(2) through (7) of the Act. Section 1847(b)(5) of the Act provides that Medicare payment for competitively bid items and services is made on an assignment-related basis, and is equal to 80 percent of the applicable SPA, less any unmet Part B deductible described in section 1833(b) of the Act.

B. Background on the Methodology for Adjusting Payment Amounts for Certain DMEPOS Using Information From DMEPOS CBPs

For DME furnished on or after January 1, 2016, section 1834(a)(1)(F)(ii) of the Act requires the Secretary to use information on the payment determined under the DMEPOS CBP to adjust the fee schedule amounts for DME items and services furnished in all non-CBAs. Section 1834(a)(1)(F)(iii) of the Act requires the Secretary to continue to make these adjustments as additional covered items are phased in or information is updated as new CBP contracts are awarded. Similarly, sections 1842(s)(3)(B) and 1834(h)(1)(H)(ii) of the Act authorize the Secretary to use payment information from the DMEPOS CBP to adjust the fee schedule amounts for enteral nutrition and OTS orthotics, respectively, furnished in all non-CBAs. Section 1834(a)(1)(G) of the Act requires that in promulgating the methodology used in making these adjustments to the fee schedule amounts, the Secretary consider the costs of items and services in areas in which the adjustments would be applied compared to the payment rates for such items and services in the CBAs.

On February 26, 2014, we published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** entitled, ''Medicare Program; Methodology for Adjusting Payment Amounts for Certain Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Using Information from Competitive Bidding Programs'' (79 FR 10754). In that ANPRM, we solicited stakeholder input on several factors including whether the costs of furnishing various DMEPOS items and services vary based on the geographic area in which they are furnished in relation to developing a payment methodology to adjust DMEPOS fee schedule amounts or other payment amounts in non-CBAs based on DMEPOS competitive bidding payment information.

We received approximately 185 comments from suppliers, manufacturers, professional, state and national trade associations, physicians, physical therapists, beneficiaries and their caregivers, and one state government office. Commenters generally stated that costs do vary by geographic region and that costs in rural and non-contiguous areas of the U.S. (Alaska, Hawaii, Puerto Rico, etc.) are significantly higher than costs in urban areas and contiguous areas of the U.S. One commenter representing many manufacturers and suppliers listed several key variables or factors that influence the cost of furnishing items and services in different areas that should be considered. This commenter stated that information on all bids submitted under the CBP should be considered and not just the bids of winning suppliers. Some commenters expressed concern that the SPAs assume a significant increase in volume to offset lower payment amounts. Commenters also recommended phasing in the adjusted fee schedule amounts, allowing for adjustments in fees if access issues arise, and annual inflation updates to adjusted fee schedule amounts.

On July 11, 2014, we published the CY 2015 ESRD PPS proposed rule in the **Federal Register** entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies;'' (79 FR 40208) as required by section 1834(a)(1)(G) of the Act, to establish methodologies for using information from the CBP to adjust the fee schedule amounts for items and services furnished in non-CBAs in accordance with sections 1834(a)(1)(F)(ii) and 1834(h)(1)(H)(ii) of the Act. We also proposed making adjustments to the payment amounts for enteral nutrition as authorized by section 1842(s)(3)(B) of the Act.

We received 89 public comments on the proposed rule, including comments from patient organizations, patients, manufacturers, health care systems, and DME suppliers. We made changes to the proposed methodologies based on these comments and finalized a method for paying higher amounts for certain items furnished in areas defined as rural areas. In addition, we provided a 6-month fee schedule adjustment phase in period from January through June of 2016, during which the fee schedule amounts would be based on 50 percent of the unadjusted fees and 50 percent of the adjusted fees to allow time for suppliers to adjust to the new payment rates and to monitor the impact of the change in payment rates on access to items and services. On November 6, 2014, we published the CY 2015 ESRD PPS final rule (79 FR 66223 through 66265) to finalize the methodologies at § 414.210(g) based on public comments received on the CY 2015 ESRD PPS proposed rule (79 FR 40208). A summary of the methodologies are provided below.

In order to delineate geographic areas to which adjusted fee schedule amounts for certain DMEPOS items are applied, we set forth a methodology to identify geographic areas using zip codes into 3

categories of rural, non-rural, and non-contiguous. We promulgated § 414.202 to define a rural area to mean, for the purpose of implementing § 414.210(g), a geographic area represented by a postal zip code if at least 50 percent of the total geographic area of the area included in the zip code is estimated to be outside any Metropolitan Statistical Area (MSA) (79 FR 66228). A rural area also includes a geographic area represented by a postal zip code that is a low population density area excluded from a CBA in accordance with section 1847(a)(3)(A) of the Act at the time the rules in § 414.210(g) are applied.

In accordance with § 414.210(g)(1)(i) through (v), CMS first determines regional adjustments to the fee schedule amounts using the 8 regions of the Bureau of Economic Analysis. Also, the regional prices are determined and limited by a national ceiling (110 percent of the average of regional prices) and floor (90 percent of the average of regional prices). In addition, adjusted fee schedules for non-contiguous areas are based on the higher of the average of the SPAs for CBAs in areas outside the contiguous U.S. or the national ceiling amount in accordance with our regulations at § 414.210(g)(2)(i) through (ii). Also, § 414.210(g)(3) specifies adjustments for low volume items (that is, bid in only 10 or fewer competitive bidding programs) are based on 110 percent of the average of the SPAs. In addition, adjustments for items and services included in CBPs no longer in effect is set forth at § 414.210(g)(4). In cases where the SPAs from the DMEPOS CBP that are no longer in effect are used to adjust fee schedule amounts, § 414.210(g)(4) provides that the SPAs be updated by an inflation adjustment factor for each year from the last year when the SPAs were in effect to the year in which the adjustment would go into effect (for example, 2016) and for each subsequent year (for example, 2017 and 2018). Furthermore, § 414.210(g)(5) establishes adjustments for accessories used with different types of base equipment in situations where a Healthcare Common Procedure Coding System (HCPCS) code describing an item used with different types of base equipment is included in more than one product category in a CBA under the CBP; a weighted average of the SPAs for the code is computed for each CBA prior to applying the other payment adjustment methodologies in § 414.210(g). Finally, in accordance with § 414.210(g)(6), adjustments are made to the SPAs for certain items due to price inversions under the DMEPOS CBP (for example, the SPA for a walker without wheels is higher than the SPA for a walker with wheels) before the SPAs are used to adjust fee schedule amounts. For groupings of similar items (for example, walkers) where price inversions have occurred, the SPAs for the items in the grouping are all adjusted to equal the weighted average of the SPAs for all of the items in the grouping. Price inversions are situations where the higher weighted and higher priced item at the time of competition becomes the lower priced item in the CBP following the competition. For a discussion regarding adjustments to SPAs to address price inversions, see the CY 2017 ESRD PPS proposed rule published in the **Federal Register** on June 30, 2016 entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Coverage and Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program Bid Surety Bonds, State Licensure and Appeals Process for Breach of Contract Actions, Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program and Fee Schedule Adjustments, Access to Care Issues for Durable Medical Equipment, and the Comprehensive End-Stage Renal Disease Care Model'' (81 FR 42851).

In order to update the adjusted fee schedule amounts based on new competitions and provide for a transitional phase-in period of the fee schedule adjustments, we established § 414.210(g)(8) and (g)(9) in the CY 2015 ESRD PPS final rule (79 FR 66263). In § 414.210(g)(8), the adjusted fee schedule amounts are updated when an SPA for an item or service is updated following one or more new DMEPOS CBP competitions and as other items are added to DMEPOS CBP. The fee schedule amounts that are adjusted using SPAs are not subject to the annual DMEPOS covered item update and are only updated when SPAs from the DMEPOS CBP are updated. Updates to the SPAs may occur as contracts are recompeted. Section 414.210(g)(9)(i), specifies that the fee schedule adjustments were phased in for items and services furnished with dates of service from January 1, 2016 through June 30, 2016, so that each fee schedule amount was adjusted based on a blend of 50 percent of the fee schedule amount if not adjusted based on information from the CBP, and 50 percent of the adjusted fee schedule amount. Section 414.210(g)(9)(ii) specifies that for items and services furnished with dates of service on or after July 1, 2016, the fee schedule amounts would be equal to 100 percent of the adjusted fee schedule amounts. Commenters recommended CMS phase in the fee schedule adjustments to give suppliers time to adjust to the change in payment amounts (79 FR 66228). Some commenters recommended a 4-year phase-in of the adjusted fees. CMS agreed that phasing in the adjustments to the fee schedule amounts would allow time for suppliers to adjust to the new payment rates and would allow time to monitor the impact of the change in payment rates on access to items and services. We decided 6 months was enough time to monitor access and health outcomes to determine if the fee schedule adjustments created a negative impact on access to items and services. Therefore, we finalized a 6-month phase-in period of the blended rates (79 FR 66228 through 66229).

We finalized the 6-month transition period from January 1 through June 30, 2016 in the CY 2015 ESRD PPS final rule (79 FR 66223) that was published in the **Federal Register** on November 6, 2014. The Cures Act was enacted on December 13, 2016, and section 16007(a) of the Cures Act extended the transition period for the phase-in of fee schedule adjustments at § 414.210(g)(9)(i) by 6 additional months so that fee schedule amounts were based on a blend of 50 percent of the adjusted fee schedule amount and 50 percent of the unadjusted fee schedule amount until December 31, 2016 (with full implementation of the fee schedule adjustments applying to items and services furnished with dates of service on or after January 1, 2017).

C. Transition Period for Phase-In of Fee Schedule Adjustments

We have determined that the transitional period for the phase-in of adjustments to fee schedule amounts should be resumed in non-CBA rural and non-contiguous areas in order to ensure access to necessary items and services in these areas. This interim final rule with comment period amends § 414.210(g)(9) to change the end date for the initial transition period for the phase-in of adjustments to fee schedule amounts for certain items based on information from the DMEPOS CBP from June 30, 2016 to December 31, 2016, to reflect the extension that was mandated by section 16007(a) of the Cures Act. This interim final rule with comment period also amends § 414.210(g)(9) to resume the transition period for the phase-in of adjustments to

fee schedule amounts for certain items furnished in non-CBA rural and non-contiguous areas from June 1, 2018 through December 31, 2018, for the reasons discussed in this preamble.

1. Statutory Mandate To Reconsider Fee Schedule Adjustments

After we established the fee schedule adjustment methodology under § 414.210(g), Congress amended section 1834(a)(1)(G) of the Act to require that CMS take certain steps and factors into consideration regarding the fee schedule adjustments for items and services furnished on or after January 1, 2019, to ensure that the rates take into account certain aspects of providing services in non-CBAs. Specifically, section 16008 of the Cures Act amended section 1834(a)(1)(G) of the Act to require in the case of items and services furnished on or after January 1, 2019, that in making any adjustments to the fee schedule amounts in accordance with sections 1834(a)(1)(F)(ii) and (iii) of the Act, the Secretary shall: (1) Solicit and take into account stakeholder input; and (2) take into account the highest bid by a winning supplier in a CBA and a comparison of each of the following factors with respect to non-CBAs and CBAs:

- The average travel distance and cost associated with furnishing items and services in the area.
- The average volume of items and services furnished by suppliers in the area.
- The number of suppliers in the area.

On March 23, 2017, CMS hosted a national provider call to solicit stakeholder input regarding adjustments to fee schedule amounts using information from the DMEPOS CBP. The national provider call was announced on March 3, 2017, and we requested written comments by April 6, 2017. We received 125 written comments from stakeholders. More than 330 participants called into our national provider call, with 23 participants providing oral comments during the call. In general, the commenters were mostly suppliers, but also included manufacturers, trade organizations, and healthcare providers such as physical and occupational therapists. These stakeholders expressed concerns that the level of the adjusted payment amounts constrains suppliers from furnishing items and services to rural areas. Stakeholders requested an increase to the adjusted payment amounts for these areas. The written comments generally echoed the oral comments from the call held on March 23, 2017, whereby stakeholders claimed that the adjusted fees are not sufficient to cover the costs of furnishing items and services in rural and non-contiguous areas and that this is having an impact on access to items and services in these areas.

The oral and written comments are organized into the following categories:

Inadequacy of Adjusted Fee Schedule Amounts: Commenters claim the adjusted fee schedule amounts do not cover the cost of furnishing the items and are not sustainable. Many commenters opposed the current adjusted payment amounts as insufficient to sustain the current cost of doing business. Some commenters stated that current reimbursement levels are below the cost of doing business. Many commenters stated they were billing non-assigned for items, or were considering billing non-assigned in the future.

Travel Distance: Commenters claim the average travel distance and cost for suppliers serving rural areas are greater than the average travel distance and cost for suppliers serving CBAs. Many commenters described farther travel distances in rural areas than in non-rural areas. For the purpose of implementing the fee schedule adjustment methodologies at § 414.210(g), the term ''rural area'' is defined at § 414.202 and essentially includes any areas outside an MSA or excluded from a CBA.

Volume of Services: Many commenters asserted that the average volume of services furnished by suppliers, when serving non-CBAs, are lower than the average volume of services furnished by suppliers, when serving CBAs. Many commenters stated that they do not get the same increase in volume that suppliers who obtain competitive bidding contracts get, which does not allow them to have economies of scale and obtain products at lower costs. Claims data for 2016 and 2017 indicates that the average volume of allowed services for suppliers serving CBAs is significantly higher than the average volume of allowed services for suppliers serving non-CBAs, particularly rural and non-contiguous areas.

Beneficiary Access: Many commenters stated that the adjusted fees have reduced the number of suppliers in the area, and that this has caused or will cause beneficiary access issues. Some commenters explained that they were the only supplier in the area. Claims data indicates that the number of supplier locations furnishing items and services subject to the fee schedule adjustments changed from 13,535 in 2015 to 12,617 in 2016.

Adverse Beneficiary Health Outcomes: Commenters stated that beneficiaries are going without items and this is causing adverse health outcomes. Commenters stated that hospital readmissions and lengths of stay, falls, and fractures are increasing as a result of the fee schedule reductions.

Delivery Expenses: A few commenters provided an estimate of how much their delivery expenses cost, their estimated service radius, and the average distance traveled. Several commenters stated that they have reduced the size of their service area due to the level of reimbursement that they are receiving.

Costs in Rural and Non-Contiguous Areas: Many commenters stated rural areas have unique costs, costs that are higher than non-rural areas. Similar to comments received on our CY 2015 ESRD PPS proposed rule (79 FR 40275 through 40315) and discussed in the CY 2015 ESRD PPS final rule (79 FR 66223 through 66265), some commenters stated that a 10 percent payment increase in rural areas is not enough to cover costs in rural areas. One commenter stated that non-contiguous areas, such as Alaska and Hawaii, face unique and greater costs due to higher shipping costs, a smaller amount of suppliers, and more logistical challenges related to delivery. Some commenters stated specific costs, as well as data sources, that CMS should take into account when adjusting fees in non-CBAs. These included the following: Geographic wage index factors, gas, taxes, employee wages and benefits, wear and tear of vehicle, average per capita income, training, delivery, set up, historical Medicare home placement volume, proximity to nearby CBAs, employing a respiratory therapist, electricity charges, freight charges, 24/7 service, documentation requirements, average per patient cost, licensing accreditation, surety bonds, audits, population density, miles and time between points of service, regulatory costs, vehicle insurance, and liability insurance.

Two commenters pointed to the Ambulance Fee Schedule and one commenter pointed to the Bureau of Labor Statistic Consumer Expenditure Survey as evidence that health care costs in rural areas are higher than in urban areas. Another commenter mentioned the Internal Revenue Service Mileage Rate, the minimum wage, AAA Gallon of Gasoline prices, and the price of a loaf of white bread, to highlight how the prices of such items have increased over the years, while reimbursement for DME has not.

Using the Highest Winning Bids for the Adjusted Fee Schedule Methodology: Five commenters suggested that the adjusted fee schedule amounts be based on maximum winning bids in CBAs rather than the median of winning bids in CBAs. One commenter suggested that the maximum winning bids should be the starting point for the adjustments and that additional payment should be added on to these amounts to pay for the higher costs of furnishing items and services in non-CBAs.

One of the factors CMS must consider when making fee schedule adjustments for items and services furnished on or after January 1, 2019, in accordance with section 16008 of the Cures Act, is the average volume of items and services furnished by suppliers in an area. A supplier recoups costs through the payments made for the items they furnish. In the case of overhead costs such as rent, utilities, salaries, and employee benefits, the more items a supplier furnishes, the more the supplier is able to recoup these overhead costs. Data for items furnished in 2016 and 2017 shows that the average volume of items furnished by suppliers in CBAs exceeds the average volume of items furnished by suppliers in rural and non-contiguous areas. The fact that the volume of items furnished per supplier in rural and non-contiguous areas is less than the volume furnished in CBAs indicates that the cost per item in rural and non-contiguous areas may be higher than the cost per item in CBAs. Because there are fewer suppliers in CBAs furnishing a higher volume of items and services, these suppliers likely have lower costs per item because they can make up their overhead costs over more items. In addition, the higher the volume of items a supplier furnishes, the larger the volume purchasing discount is likely to be when purchasing equipment from a manufacturer. This supports stakeholder input that the suppliers in rural and non-contiguous areas have an average volume of business less than that of their counterparts in CBAs, and that this difference may make it more difficult for suppliers in rural and non-contiguous areas to meet their expenses.

In addition, the adjusted fee schedule amounts for stationary oxygen equipment in non-contiguous, non-CBAs are lower than the SPA for stationary oxygen equipment in the Honolulu, Hawaii, CBA and the adjusted fee schedule amounts for stationary oxygen equipment in some rural areas are lower than the SPAs in CBAs within the same state. This is due to the combination of the fee schedule adjustments and the budget neutrality offset that CMS applies to stationary oxygen equipment and contents due to the separate oxygen class for oxygen generating portable equipment (OGPE). In 2006, CMS established a separate payment class for OGPE (which are portable concentrators with transfilling equipment), through notice and comment rulemaking (71 FR 65884). The authority to add this payment class, located at section 1834(a)(9)(D) of the Act, only allows CMS to establish new classes of oxygen and oxygen equipment if such classes are budget neutral, which means that the establishment of new oxygen payment classes does not result in oxygen and oxygen equipment expenditures for any year that are more or less than the expenditures that would have been made had the new classes not been established. In accordance with § 414.226(c)(6), CMS reduces the fee schedule amounts for stationary oxygen equipment in non-CBAs in order to make the payment classes for oxygen and oxygen equipment budget neutral as required by section 1834(a)(9)(D) of the Act. Due to the combination of the fee schedule adjustment and the budget neutrality offset, the adjusted fee schedule amounts for stationary oxygen equipment in non-contiguous non-CBAs and some rural areas are lower than the SPAs in Honolulu, Hawaii, and CBAs within the same state, respectively. This is significant because the current methodology at 42 CFR 414.210(g) attempts to ensure that the adjusted fee schedule amounts for items and services furnished in rural areas within a state are no lower than the adjusted fee schedule amounts for non-rural areas within the same state. CBAs are areas where payment for certain DME items and services is based on SPAs established under the CBP rather than adjusted fee schedule amounts. It is worth noting that CBAs tend to have higher population densities and typically correspond with urban census tracts.

The establishment of the payment class for OGPE resulted in an increase in Medicare payments for these items and services. Therefore, each year, a budget neutrality offset is applied to the monthly payment amount for stationary oxygen equipment to ensure that the OGPE payment class does not result in oxygen and oxygen equipment expenditures that would be more or less than the expenditures that would have been made without the OGPE class. As more beneficiaries shift to using OGPE, the budget neutrality offset that is applied to the stationary oxygen equipment payment rate increases. The budget neutrality requirement does not apply under the DMEPOS CBP because under section 1847(a) of the Act, the payment amounts for oxygen and oxygen equipment are established based on bids submitted and accepted by winning suppliers under the program, and not based on the payment rules under section 1834(a) of the Act. The budget neutrality offset has resulted in payment amounts for stationary oxygen equipment in CBAs being higher than the adjusted fee schedule amounts in some cases. Restoring the blended fee schedule rates paid in rural and non-contiguous non-CBAs during the transition period would result in fee schedule amounts for oxygen and oxygen equipment in these areas being higher than the SPAs paid in all of the CBAs. Therefore, payment at the blended rates would avoid situations where payment for furnishing oxygen in a rural or non-contiguous, non-CBA is lower than payment for furnishing oxygen in a CBA.

2. Fee Schedule Adjustment Impact Monitoring Data

Regarding adverse health beneficiary outcomes, we have been monitoring claims data from non-CBAs, some of which pre-dates the implementation of the fully adjusted fee schedule amounts. To the extent that this data pre-dates the implementation of the fully adjusted fees, it is less likely to demonstrate any adverse impacts. The data does not show any observable trends indicating an increase in adverse health outcomes such as mortality, hospital and nursing home admission rates, monthly hospital and nursing home days, physician visit rates, or emergency room visits in 2016 or 2017 compared to 2015 in the non-CBAs, overall. In addition, we have been monitoring data on the rate of assignment in non-CBAs, which reflects when suppliers are accepting Medicare payment as payment in full and not balance billing beneficiaries for the cost of the DME. More importantly, the monitoring data does not indicate the extent to which suppliers that have not already exited the Medicare program are struggling to maintain current service levels or individual cases where access or health outcomes may have been affected. We are soliciting comments on ways to improve our fee schedule adjustment impact monitoring data.

3. Resuming Transitional Blended Fee Schedule Rates in Rural and Non-Contiguous Areas

The monitoring data described in section II.C.2 of this interim final rule with comment is retrospective claims data for payment of items already

furnished. Stakeholders state that this data is of limited utility in assessing the development of adverse trends in access to items and services, or that the health of beneficiaries is being negatively affected by the fully adjusted fee schedule amounts. Claims data does not capture all of the challenges experienced by beneficiaries and suppliers, such as suppliers going out of business or timely delivery of items. Further, this claims data is also limited to a retrospective view to address potential future problems. In other words, it does not serve as a tool that can guard against the negative outcomes raised by stakeholders, as discussed elsewhere in the preamble. In fact, the Government Accountability Office (GAO) acknowledged challenges associated with the monitoring of DMEPOS and the CBP in its review of the first year of the DMEPOS CBP Round 1 Rebid, stating that the monitoring methods used by CMS in assessing the impact of competitive bidding did not directly show whether beneficiaries received the DME they needed on time.[1] We do note, however, that the Office of Inspector General (OIG) has found that the implementation of Round 2 Competitive Bidding did not appear to disrupt beneficiary access to CPAP/RAD equipment.[2]

Approximately 85 percent of the DME industry are considered small businesses according to the Small Business Administration's size standards. According to Medicare claims data, the number of supplier locations furnishing DME items and services subject to the fee schedule adjustments decreased by 22 percent from 2013 to 2016. In 2016 alone there was a 7 percent decline from the previous year in the number of DME supplier locations furnishing items and services subject to the fee schedule adjustments. The magnitude of this decline in DME supplier locations, from 13,535 (2015) to 12,617 (2016),[3] indicates that the number of DME supplier locations serving these areas continues to decline. Based on partial year data, there was a further reduction in supplier locations of 9 percent in 2017.[4]

There are additional factors that section 16008 of the Cures Act requires us to take into account in making adjustments to the fee schedule amounts for items and services furnished beginning in 2019. We know that the average volume of items and services furnished per supplier in non-CBAs is significantly less than the average volume of items and services furnished per supplier in CBAs. Additionally, the number of suppliers in general has been steadily decreasing over time and this trend is not abating. As the number of suppliers serving non-CBAs continues to decline, the volume of items and services furnished by the remaining suppliers is increasing. However, we do not know if the suppliers that remain will have the financial ability to continue expanding their businesses to continue to satisfy market demand. We also do not know if large suppliers serving both urban and rural areas will continue to serve the rural areas representing a much smaller percentage of their business than urban areas. We specifically address the stakeholder comments and concerns below.

Based on the stakeholder comments and decrease in the number of supplier locations, there is an immediate need to resume the transitional, blended fee schedule amounts in rural and non-contiguous areas. Resuming these transitional blended rates will preserve beneficiary access to needed DME items and services in a contracting supplier marketplace, while allowing CMS to address the adequacy of the fee schedule adjustment methodology, as required by section 16008 of the Cures Act. We recognize that reduced access to DME may put beneficiaries at risk of poor health outcomes or increase the length of hospital stays.

Suppliers have noted that they have struggled under the fully adjusted fee schedule and that they do not believe they can continue to furnish the items and services at the current rates. Stakeholders overwhelmingly have stated that the fully adjusted fee schedule amounts are not sufficient to cover supplier costs for furnishing items and services in rural and non-contiguous areas and the number of suppliers furnishing items in these areas continues to decline. Further, section 16008 of the Cures Act mandates that we consider stakeholder input and additional information in making fee schedule adjustments based on information from the DMEPOS CBP for items and services furnished beginning in 2019. The information we have collected, however, includes input from many stakeholders indicating that the fully adjusted fee schedule amounts are too low and that this is having an adverse impact on beneficiary access to items and services, particularly in rural and non-contiguous areas. Given the strong stakeholder concern about the continued viability of many DMEPOS suppliers, coupled with the Cures Act mandate to consider additional information material to setting fee schedule adjustments, it would be unwise to continue with the fully adjusted fee schedule rates in the vulnerable rural and non-contiguous areas for 7 months. Any adverse impacts on beneficiary health outcomes, or on small businesses exiting the market, could be irreversible. It is in the best interest of the beneficiaries living in these areas to maintain a blend of the historic unadjusted fee schedule amounts and fee schedule amounts adjusted using SPAs established under the DMEPOS CBP to prevent suppliers that might be on the verge of closing from closing, as they may be the only option for beneficiaries in these areas. While our systematic monitoring in these areas has not shown problematic trends to this point, that monitoring by its nature looks backward and reflects other limitations, as discussed in section II.C.2 of this interim final rule with comment. Given the rapid changes in health care delivery that may disproportionately impact rural and more isolated geographic areas, there is concern that the continued decline of the fees and the number of suppliers in such areas may impact beneficiary access to items and services. These adjustments would maintain a balance between the higher historic rates and rates adjusted based on bidding in larger metropolitan areas where suppliers furnish a much larger volume of DMEPOS items and services and support continued access to services. In order to safeguard beneficiaries' access to necessary items and services, we should immediately resume the transition period for the phase-in of fee schedule adjustments in these areas that was in place during CY 2016. Therefore, we are revising § 414.210(g)(9) to resume the fee schedule adjustment transition rates for items and services furnished in rural and non-contiguous areas from June 1, 2018 through December 31, 2018, while we further analyze this issue. During this extended

[1] U.S. Government Accountability Office. Medicare: Review of the First Year of CMS's Durable Medical Equipment Competitive Bidding Program's Round 1 Rebid, May 2012 (GAO–12–693), *http://www.gao.gov/assets/600/590712.pdf* (accessed 4 November 2015), page 42.

[2] Office of Inspector General. U.S. Department of Health & Human Services. Round 2 Competitive Bidding for CPAP/RAD: Disrupted Access Unlikely for Devices, Inconclusive for Supplies, June 2017 (OEI–01–15–00040).

[3] Medicare claims process through November 3, 2017

[4] There were 12,537 supplier locations furnishing items subject to the fee reductions in 2016, based on claims processed through April 6, 2017, and 11,384 supplier locations furnishing items subject to the fee reductions in 2017, based on claims processed through April 7, 2018.

transition period, CMS will take into account the information required by section 16008 of the Cures Act in determining whether changes to the methodology for adjusting fee schedule amounts for items furnished on or after January 1, 2019, are necessary.

D. Fee Schedule Amounts for Accessories Used With Group 3 Complex Rehabilitative Power Wheelchairs

In the CY 2010 final rule (75 FR 73390) published in the **Federal Register** on November 29, 2010, entitled ''Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2011,'' we reviewed the HCPCS coding for power wheelchairs that were updated in 2006 in response to the release of the Power Mobility Device Coding Guidelines published by the DME Medicare Administrative Contractors. Codes were added to the HCPCS for various types of power wheelchair bases, differentiated based on level of performance, with group 1 being the lowest and group 3 being the highest level covered by Medicare, and the ability to accommodate complex rehabilitative power options such as power seating systems or a specialty interface, such as sip and puff controls. Codes were established at both the group 2 and 3 performance level for ''complex rehabilitative'' power wheelchair bases.

Section 154(a)(1)(B) of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 (Pub. L. 110–275), amended section 1847(a)(2)(A) of the Act to exclude group 3 or higher complex rehabilitative power wheelchairs and related accessories when furnished in connection with such wheelchairs from competitive bidding. At the same time, section 154(a)(1)(A) of MIPPA amended section 1847(a)(1) of the Act to add paragraph (D) which terminated Round 1 and required rebidding Round 1 for the same items and services and the same areas with some changes. Since we included group 2 complex rehabilitative power wheelchairs and related accessories (including seating systems) and seat and back cushions, under Round 1 of the DMEPOS CBP, we were required to include those wheelchairs and accessories in the Round 1 Rebid of the DMEPOS CBP. The accessories (including seating systems) and cushions furnished in connection with group 2 complex rehabilitative power wheelchairs (HCPCS codes K0835 through K0843) are the same items furnished in connection with group 3 complex rehabilitative power wheelchairs (HCPCS codes K0848 through K0864).

Single payment amounts were implemented on January 1, 2011, in the nine Round 1 Rebid areas, for group 1 and 2 standard power wheelchair bases, group 2 complex rehabilitative power wheelchair bases, and the interchangeable accessories used with the different bases (for example, batteries used with all power wheelchairs and power seating systems used with both group 2 and 3 complex rehabilitative power wheelchairs). As noted above, these items are competitively bid under section 1847 of the Act, and we did not competitively bid group 3 wheelchairs or use competitively bid prices for related accessories when used with a group 3 wheelchair in the Round 1 Rebid of the DMEPOS CBP.

Section 1834(a)(1)(F)(ii) of the Act mandates the adjustment of fee schedule amounts for items that are furnished in non-CBAs based on information from the CBPs beginning on January 1, 2016. We established a policy under § 414.210(g)(5) for adjusting the fee schedule amounts for accessories used with different types of base equipment that are included in one or more product categories under competitive bidding in the CY 2015 ESRD PPS final rule (79 FR 66223 through 66233). In that rulemaking, we stated the Agency's belief that it would be unnecessarily burdensome to have different fee schedule amounts for the same item (HCPCS code) when it is used with similar, but different types of base equipment, and that the costs of furnishing the accessory should not vary significantly based on the type of base equipment it is used with (79 FR 66230). We finalized § 414.210(g)(5) to adjust the fee schedule amount for a HCPCS code for an accessory for use with all types of base equipment using pricing information for the item when it is included in one or more product categories under competitive bidding. The adjusted fee schedule amounts for these common accessories became effective on January 1, 2016.

Section 2 of the Patient Access and Medicare Protection Act of 2015 (Pub. L. 114–115) delayed the adjustments to the fee schedule amounts for accessories (including seating systems) and seat and back cushions when furnished in connection with group 3 complex rehabilitative power wheelchairs until January 1, 2017. Subsequently, section 16005 of the Cures Act extended this delay in the DME fee schedule adjustments based on competitive bidding information for certain wheelchair accessories used with group 3 complex rehabilitative power wheelchairs from January 1, 2017 until July 1, 2017. Since the Congress has acted twice to address the issue, these legislative actions highlight a general concern regarding access to this specialized equipment by the vulnerable patient population that depends on this equipment and technology.

Complex rehabilitative power wheelchairs are used by patients needing functionality, such as head or sip and puff controls, power tilt or recline seating, or ventilators mounted to the wheelchair, which are not available on standard power wheelchairs. The ability and performance of the wheelchair in meeting the patients' specialized needs is critical, and most patients use wheelchair bases with group 3 level performance to meet these needs. Far fewer use group 2 wheelchair bases, which are the bases that the accessories were included with under Round 1 of the DMEPOS CBP.

Section 1847(a)(2)(A) of the Act provides the categories of items that are subject to the CBP and excludes certain complex rehabilitative power wheelchairs recognized by the Secretary as classified within group 3 or higher (and related accessories when furnished in connection with such wheelchairs). This statutory exclusion should inform our implementation of section 1834(a)(1)(F) of the Act such that the fee schedule amounts for wheelchair accessories and back and seat cushions used in conjunction with group 3 complex rehabilitative power wheelchairs should not be adjusted based on the methodologies set forth in § 414.210(g)(5). Therefore, as we have announced in guidance available on the CMS website in June (located at: *https://www.cms.gov/Center/Provider-Type/Durable-Medical-Equipment-DME-Center.html*) the fee schedule amounts for wheelchair accessories and back and seat cushions used in conjunction with group 3 power wheelchairs continue to be based on the unadjusted fee schedule amounts updated by the covered item update specified in section 1834(a)(14) of the Act. The fee schedule amounts for all other accessories used with different types of base equipment continue to be calculated in accordance with the adjustment methodology set forth in § 414.210(g)(5) of our regulations.

E. Technical Changes To Conform the Regulations to Section 5004(b) of the Cures Act: Exclusion of DME Infusion Drugs Under CBPs

Section 5004(b) of the Cures Act amends section 1847(a)(2)(A) of the Act to exclude drugs and biologicals

described in section 1842(o)(1)(D) of the Act from the CBP. We are making conforming technical changes to the regulations text consistent with statutory requirements to exclude drugs and biologicals from the CBP. We are amending 42 CFR 414.402 to reflect that infusion drugs are not included in the CBP by revising the definition of ''Item'' in paragraph (2) to add the words ''and infusion'' after the words ''other than inhalation''. The sentence will read as follows: ''Supplies necessary for the effective use of DME other than inhalation and infusion drugs.'' We are also removing a reference to drugs being included in the CBP by deleting the phrase ''or subpart I'' in § 414.412(b)(2). The sentence will read as follows: ''The bids submitted for each item in a product category cannot exceed the payment amount that would otherwise apply to the item under subpart C of this part, without the application of § 414.210(g), or subpart D of this part, without the application of § 414.105. The bids submitted for items in accordance with paragraph (d)(2) of this section cannot exceed the weighted average, weighted by total nationwide allowed services, as defined in § 414.202, of the payment amounts that would otherwise apply to the grouping of similar items under subpart C of this part, without the application of § 414.210(g), or subpart D of this part, without the application of § 414.105.'' Similarly, we are making a conforming technical change to § 414.414(f) in the discussion of ''expected savings'' so that infusion drugs are not taken into account by deleting the words ''or drug'' and the phrase ''or the same drug under subpart I'' from § 414.414(f). The ''expected savings'' text will read as follows: ''A contract is not awarded under this subpart unless CMS determines that the amounts to be paid to contract suppliers for an item under a competitive bidding program are expected to be less than the amounts that would otherwise be paid for the same item under subpart C or subpart D.''

III. Provisions of the Interim Final Rule With Comment Period

A. Transition Period for Phase-In of Fee Schedule Adjustments

We are amending § 414.210(g)(9)(i) to change the end date for the initial transition period for the phase in of adjustments to fee schedule amounts for certain items based on information from the DMEPOS CBP from June 30, 2016 to December 31, 2016, as mandated by section 16007(a) of the Cures Act. We are also amending § 414.210(g)(9)(ii) to reflect that fully adjusted fee schedule amounts apply from January 1, 2017 through May 31, 2018, and then on or after January 1, 2019. We are also adding § 414.210(g)(9)(iii) to resume the transition period for the phase in of adjustments to fee schedule amounts for certain items furnished in rural and non-contiguous areas from June 1, 2018 through December 31, 2018. Finally, we are adding § 414.210(g)(9)(iv) to reflect that fully adjusted fee schedule amounts apply for certain items furnished in non-CBA areas other than rural and non-contiguous areas from June 1, 2018 through December 31, 2018.

As previously stated in section II.C.1 of this interim final rule with comment, stakeholders overwhelmingly have stated that the fully adjusted fee schedule amounts are not sufficient to cover supplier costs for furnishing items and services in rural and non-contiguous areas and are impacting beneficiary health outcomes. Section 16008 of the Cures Act requires CMS to consider certain factors in making fee schedule adjustments using information from the CBP for items and services furnished in non-CBAs on or after January 1, 2019. Given the limitations associated with our retrospective claims data prevent us from detecting rapidly developing beneficiary access issues, we believe we should immediately resume the blended fee schedule rates in rural and non-contiguous areas that were in place during CY 2016, while we further analyze this issue in order to safeguard beneficiaries' access to necessary items and services in rural and non-contiguous areas. Given that additional information and factors will be considered when addressing the fee schedule adjustments for items and services furnished on or after January 1, 2019, and that these factors include differences in costs (yet to be quantified) associated with furnishing items in heavier populated CBAs versus less populated or remote rural and non-contiguous areas, we have concluded that we should adjust fee schedule amounts based on competitive bidding information prior to 2019. The volume of items furnished per supplier in rural and non-contiguous areas is far less than the volume of items furnished per supplier in CBAs, indicating that the cost per item in these areas may be higher than the cost per item in CBAs. Also, as noted earlier, our systematic claims monitoring only looks backward in time and may not detect rapidly emerging trends, particularly in isolated or rural areas. We also referenced the GAO's acknowledgement that there are challenges associated with the monitoring CBP. In its report regarding the first year of the DMEPOS CBP Round 1 Rebid, the GAO stated that the monitoring methods used by CMS in assessing the impact of competitive bidding did not directly show whether beneficiaries received the DME needed on time or whether adverse health outcomes were caused by problems accessing DMEPOS. As the fee schedule amounts and the number of suppliers continue to decline, we are concerned that DME access in remote areas of the country may be negatively affected by significant payment reductions put in place prior to a full analysis of the factors affecting the cost of furnishing items and services in distinctly different market areas. We are also concerned that national chain suppliers may close locations in more remote areas if the rate they are paid for furnishing items in a market where the volume of services is low does not justify the overhead expenses of retaining the locations.

Finally, because this IFC will result in a change to the 2018 fee schedule amounts for the various classes of oxygen and oxygen equipment, the annual budget neutrality adjustment for 2018, mandated by regulations at § 414.226(c)(6), will need to be recomputed. This annual adjustment to the monthly payment amount for stationary oxygen equipment and oxygen contents is mandated by section 1834(a)(9)(D)(ii) of the Act as a condition for maintaining the higher portable oxygen equipment add-on payment for portable concentrators and transfilling equipment.

B. Technical Changes To Conform the Regulations to Section 5004(b) of the Cures Act: Exclusion of DME Infusion Drugs Under CBPs

We are making conforming technical changes to the regulations text consistent with statutory requirements to exclude drugs and biologicals from the CBP. Specifically, we are amending § 414.402 to reflect that infusion drugs are not included in the CBP by revising the definition of ''Item'' in paragraph (2) to add the words ''and infusion'' after the words ''other than inhalation''. We are also removing a reference to drugs being included in the CBP by deleting the phrase ''or subpart I'' in § 414.412(b)(2). Similarly, we are making a conforming technical change to the regulations text on ''expected savings'' so that infusion drugs are not taken into account in § 414.414(f) by deleting the words ''or drug'' and the phrase ''or the same drug under subpart I''.

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule before the provisions of the rule take effect in accordance with 5 U.S.C. 553(b) of the Administrative Procedure Act (APA) and section 1871 of the Act. Specifically, section 553(b) of the APA requires the agency to publish a notice of the proposed rule in the **Federal Register** that includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. Section 553(c) of the APA further requires the agency to give interested parties the opportunity to participate in the rulemaking through public comment before the provisions of the rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. Section 553(b)(3)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to waive these procedures, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. Section 553(d) of the APA ordinarily requires a 30-day delay in the effective date of a final rule from the date of its publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds good cause to support an earlier effective date. Section 1871(e)(1)(B)(i) of the Act also prohibits a rule from taking effect before the end of the 30-day period that begins the date that the rule is issued or published. However, section 1871(e)(1)(B)(ii) of the Act permits a substantive rule to take effect before 30 days if the Secretary finds that a waiver of the 30-day period is necessary to comply with statutory requirements or that the 30-day delay would be contrary to the public interest. In addition, the Congressional Review Act (5 U.S.C. 801(a)(3)), requires a 60-day delayed effective date for major rules. However, we can waive the delay in effective date of the rule if the Secretary finds, for good cause, that notice and public procedure is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons in the rule issued (5 U.S.C. 808(2)).

As discussed below, and for reasons cited throughout this interim final rule with comment period, we find good cause to waive notice-and-comment rulemaking and issue this interim final rule with comment period to address fee schedule adjustments based on information from the CBP in rural and non-contiguous areas because we believe it is contrary to the public interest to go through notice-and-comment rulemaking for this provision. We also find good cause to waive the 30-day delay in effective date of this interim final rule with comment period as a delay in effective date would also be contrary to the public interest. The full fee schedule adjustments took effect on January 1, 2017, and we understand from stakeholders that some DMEPOS suppliers cannot exist at the current fully adjusted fee levels and have already had to drop out of Medicare, and even close down. Delaying the effective date of this interim final rule with comment period by 30 days could result in a further decline in the number of DMEPOS suppliers, and would pose an unnecessary risk of harm to beneficiaries in certain areas of the country that rely on one or a few suppliers to access to items and services and these suppliers are no longer able to furnish the items and services at the fully adjusted fee schedule amounts. We also note that in this interim final rule with comment period, CMS is reverting to a prior transitional payment policy that was in place from January 1, 2016 through December 31, 2016, to allow time for further engagement with stakeholders, through future notice and comment rulemaking, in the development of a long-term, more sustainable fee schedule adjustment methodology for items and services furnished in rural and non-contiguous areas.

We also find it unnecessary to undertake notice-and-comment rulemaking to make technical changes to conform the regulations to the statutory requirement under section 5004(b) of the Cures Act that infusion drugs used with DME be excluded from the DMEPOS CBP. We also find good cause to waive the delay in the effective date for this interim final rule with comment period because it would be contrary to the public interest to further delay updating the regulations to be consistent with the statute and avoid possible confusion that infusion drugs are still subject to competitive bidding, particularly given that the statutory exclusion is self-implementing and already effective.

Although we did not formally publish a notice of proposed rulemaking in the **Federal Register**, we have solicited stakeholder input regarding the impact of the fee schedule adjustments as required by section 16008 of the Cures Act, through a national provider call on March 23, 2017, as well as through an accompanying written comment period. We sought feedback on section 16008 of the Cures Act, which mandates stakeholder input on the methodology for using information from the DMEPOS CBP for adjusting Medicare fee schedule amounts paid in non-CBAs.

We received numerous comments from stakeholders, such as comments that expressed how the current adjusted fee schedule is not enough to cover a DME supplier's costs of running a business and that many suppliers are not able to sustain reductions in payment of up to 60 percent on average that resulted from the full fee schedule adjustments, resulting in a number of suppliers leaving the business and many more considering leaving the business in the near future. Such a result would negatively impact beneficiaries' access to critical items and services necessary for their care. Some stakeholders commented that some of the more remote, high cost areas are served by only one or a few suppliers. In 2016, there was a 7 percent decline in the number of supplier locations furnishing items and services subject to the fee schedule adjustments in non-CBAs. The magnitude of this decline in supplier locations from 13,535 to 12,617 indicates that the number of supplier locations serving these areas continues to decline at the same time that stakeholders are indicating their expectations of additional supplier exits. In situations where there may only be one supplier serving an area, if the supplier were to stop furnishing items (for example oxygen), the beneficiaries in this area could be harmed significantly if there are no suppliers left to deliver replacement of necessary oxygen. We are concerned that national chain suppliers of oxygen may close locations in more remote areas if the rate they are paid for furnishing items in a market where the volume of services is low does not justify the overhead expenses of retaining the locations. Due to the inherent limitation associated with using retrospective claims data, our systematic monitoring in these areas has not been able to reflect problematic trends identified by numerous stakeholders. As noted, the GAO has also acknowledged challenges associated with the monitoring of DMEPOS and the CBP, stating that the monitoring methods used by CMS in

assessing the impact of competitive bidding did not directly show whether beneficiaries received the DME they needed on time or whether adverse health outcomes were caused by problems accessing DMEPOS. Given the rapid changes in health care delivery that may disproportionately impact rural and more isolated geographic areas, we are concerned that the continued decline of the fees and the number of suppliers in such areas may exacerbate the already emergent access concerns faced by beneficiaries. In general, we are concerned that beneficiaries in certain areas of the country could lose access to items and services if they rely on one or a few suppliers to furnish these items and services and these suppliers are no longer able to furnish the items and services at the fully adjusted fee schedule amounts.

Our monitoring data, by its very nature, would not alert us to the present and imminent threats to beneficiary access that stakeholders have raised in recent months. If CMS continues to pay the fully adjusted payment rates in rural and non-contiguous areas, it could further jeopardize the infrastructure of suppliers that beneficiaries rely on for access to necessary items and services in remote areas of the country. Smaller suppliers that serve remote areas may not be able to sustain larger reductions in payment because they have a limited number of ways to reduce costs. If they only have one location and a few employees to begin with, they cannot close locations or lay off employees to reduce costs. Larger suppliers that serve both remote, rural areas and urban areas may elect to close locations in the remote areas where volume of services are significantly lower because the overhead expense of maintaining the location may no longer justify retaining these locations. Therefore, we believe it is necessary to prevent future, potential access problems and adverse health outcomes for beneficiaries by resuming the fee schedule adjustment transition period in rural and non-contiguous areas. Immediately restoring the blended rates in rural and non-contiguous areas, which will cut the magnitude of the full adjustments in half, can prevent potential erosion of the supplier infrastructure that could potentially be on the verge of impacting access and health outcomes in rural and non-contiguous areas. By restoring the transition period in rural and non-contiguous areas effective June 1, 2018, this in essence extends the fee schedule adjustment phase in period by an additional 7 months and leaves a gap of 17 months from January 1, 2017 through May 31, 2018, during which suppliers have been subject to the full fee schedule adjustments in rural and non-contiguous areas. This extended phase-in period would end on December 31, 2018, since section 16008 of the Cures Act mandates that CMS consider certain factors and information in making fee schedule adjustments for items and services furnished on or after January 1, 2019. This gives suppliers serving rural and non-contiguous areas more time to adjust their businesses and may prevent the imminent closure of some supplier locations, thereby safeguarding beneficiary access to necessary items and services in rural and non-contiguous areas. It also prevents irreparable harm to businesses in rural and non-contiguous areas that would not be able to adjust to the full payment reductions, but might be able to adjust to smaller reductions in payments during an interim period until additional cost information is examined more closely by CMS to provide a more accurate reflection of the unique costs of furnishing items and services in market areas that are distinctly different from CBAs. This also allows time for CMS to receive supplier feedback and analyze the costs of furnishing DME items in rural and non-contiguous areas and other factors identified in section 16008 of the Cures Act. Resuming the fee schedule adjustment transition period for an additional 7 months in rural and non-contiguous areas seems reasonable during this interim period to allow for the more in depth analysis of the factors and information to be considered in accordance with section 16008 of the Cures Act.

In light of these concerns, while we consider broader changes to the fee schedule adjustment methodology as required by section 16008 of the Cures Act, we believe there is good cause to issue this interim final rule with comment period to revise § 414.210(g)(9) to immediately restore the fee schedule adjustment transition period in rural and non-contiguous areas. Resuming the transition period and blended rates based on adjusted and unadjusted fee schedule amounts for items and services furnished in rural and non-contiguous areas from June 1, 2018 through December 31, 2018, will allow additional time for suppliers serving rural and non-contiguous areas to adjust their businesses, prevent suppliers that beneficiaries may rely on for access to items and services in rural and non-contiguous areas from exiting the business, and allow additional time for CMS to monitor the impact of the blended rates. We believe it is contrary to the public interest to go through notice and comment rulemaking because of the stakeholder input we have already solicited that supports this change and because any further delay in implementation risks impeding beneficiary access to DME in rural and non-contiguous areas. To further delay restoring the transitional fee schedule rates in rural and non-contiguous areas for additional months raises the access concerns described earlier in the preamble. As such, in § 414.210(g)(9)(iii), for items and services furnished in rural and non-contiguous areas on or after June 1, 2018, the payment adjustments will be based on a blend of 50 percent of the unadjusted fee schedule amount and 50 percent of the adjusted payment amount established in accordance with the methodologies in § 414.210(g)(1) through (8). We are also amending § 414.210(g)(9)(ii) to reflect that for items and services furnished with dates of service from January 1, 2017 to May 31, 2018, the fee schedule amount for the area is equal to 100 percent of the adjusted payment amount.

We note that this rule is urgent to preserve beneficiary access to DME items and services in rural and non-contiguous areas during this transition period, that CMS is continuing to study the impact of the change in payment rates on access to items and services in these areas, and that we intend to undertake subsequent notice-and-comment rulemaking for CY 2019.

Section 5004(b) of the Cures Act further amends section 1847(a)(2)(A) of the Act to exclude drugs and biologicals described in section 1842(o)(1)(D) of the Act. We are finalizing conforming regulatory changes to reflect our interpretation of these statutory requirements to exclude infusion drugs, described in section 1842(o)(1)(D) of the Act, as a covered item that could be subject to the DMEPOS CBPs. Because this is just a minor technical change to conform the language in the regulations to the statute, we believe that a notice and comment period for this change is unnecessary.

Therefore, as noted above, we find good cause to waive the notice of proposed rulemaking to address fee schedule adjustments in rural and non-contiguous areas based on information from the CBP, and to make technical changes to the regulations so they conform to the statutory requirement under section 5004(b) of the Cures Act that infusion drugs used with DME be excluded from the DMEPOS CBP. We also find good cause to waive the delay in effective date and issue this interim

final rule with comment period with an effective date of June 1, 2018. We are providing a 60-day public comment period.

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

VI. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VII. Economic Analyses

A. Regulatory Impact Analysis

1. Introduction

We have examined the impacts of this interim final rule with comment period as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We estimate that this rulemaking is ''economically significant'' as measured by the $100 million threshold, and hence also a major rule under the Congressional Review Act. In addition, the Office of Management and Budget (OMB) has determined that the actions are significant within the meaning of section 3(f)(4) of the Executive Order. Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the rulemaking. Therefore, OMB has reviewed this interim final rule with comment period, and the Departments have provided the following assessment of their impact. We solicit comments on the regulatory impact analysis provided.

2. Statement of Need

This interim final rule with comment period amends the regulation to revise the date that the initial fee schedule adjustment transition period ended and resumes the fee schedule adjustment transition period for certain DME items and services and enteral nutrition furnished in rural and non-contiguous areas not subject to the DMEPOS CBP from June 1, 2018 through December 31, 2018. This interim final rule with comment period also makes technical amendments to existing regulations for DMEPOS items and services to note the exclusion of infusion drugs used with DME from the DMEPOS CBP.

3. Overall Impact

The interim final rule with comment period resumes the transitional adjusted Medicare fee schedule amounts for certain items and services that are furnished in rural and non-contiguous areas beginning June 1, 2018 until December 31, 2018. It is estimated that these fee schedule adjustments will cost over $290 million in Medicare Part B benefit payments and $70 million in Medicare beneficiary cost sharing. For dual eligible beneficiaries Medicaid pays the cost sharing. The Medicaid payment is split between a Federal portion and the states' portion, which for this rule is $10 million and $10 million, respectively.

B. Detailed Economic Analysis

a. Effects on the Medicare Program and Beneficiaries

This interim final rule with comment period resumes transitional adjusted Medicare fee schedule amounts for certain items and services furnished in rural and non-contiguous areas beginning June 1, 2018 until December 31, 2018. It is estimated that these adjustments will cost over $290 million in Medicare Part B benefit payments and $70 million in beneficiary cost sharing. The suppliers will get increased revenue from the increased fee schedule amounts. See Table 1.

TABLE 1—CASH IMPACT OF RESUMING THE ADJUSTED FEE SCHEDULE TRANSITION

FY	Impact on the benefit payments in dollars (to the nearer 10 million) [1]	Impact on beneficiary cost sharing in dollars (to the nearer 10 million) [2]	Federal share of Medicaid [3]	States' share of Medicaid [3]
2018	170	40	5	5
2019	120	30	5	5

[1] Does not include premium offset.
[2] Includes Medicaid payments.
[3] Copayments made for dual eligible Medicare beneficiaries.

b. Impact on Beneficiaries and Other Payers

In order to preserve beneficiary access to DME items and services, this rule, as indicated above, will result in a $70 million dollar Medicare cost sharing increase to the beneficiaries. For those beneficiaries who have supplemental insurance, this increase may be covered by supplemental insurance programs (for example, Medigap). This is a temporary time-limited extension of the fee schedule adjustment transition period.

For dual eligible beneficiaries, Medicaid pays the cost sharing. The Medicaid payment is split between a Federal portion and the states' portion, which for this rule is $10 million and $10 million, respectively.

Beneficiaries who do not have supplemental insurance or who are not dual eligible will have increased cost sharing as a result of this interim final rule with comment period.

c. Alternatives Considered

One alternative considered to address concerns about access to items and services in non-CBAs would be to apply the 50/50 blended rates in all non-CBAs, since stakeholders commented regarding problems related to access to necessary items and services in all non-CBAs. This would cost $570 million in Medicare Part B benefit payments and $140 million in beneficiary cost sharing. Of the $140 million in beneficiary cost sharing, $45 million is the Medicaid impact for dual eligibles, of which $25 million is the Federal portion, and $20 million is the state portion. A second alternative would be to apply the blended rates in all non-CBAs, but change the blend from 50 percent unadjusted fee and 50 percent adjusted fee to 25 percent unadjusted fee and 75 percent adjusted fee. This would cost $290 million in Medicare Part B benefit payments and $70 million in beneficiary cost sharing. Of the $70 million in beneficiary cost sharing, $20 million is the Medicaid impact for dual eligibles, of which $10 million is the Federal portion, and $10 million is the state portion. Table 2 compared the annual costs of these alternative rules to the annual costs of the interim final rule with comment period.

TABLE 2—COMPARISON OF THE COSTS OF ALTERNATIVE RULES WITH THE INTERIM FINAL RULE WITH COMMENT PERIOD

FY	Interim final rule	50/50 Blend in all non-CBAs	25/75 Blend in all non-CBAs
2018	170	330	170
2019	120	240	120

We did not elect either of these alternatives and chose to apply the 50/50 blended rates in rural and non-contiguous areas only to ensure access to items and services for Medicare beneficiaries in these areas.

Public comments are requested on these and any other related alternatives.

d. Regulatory Familiarization Costs

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this interim final rule with comment period, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the number of reviewers of this final rule is about the same number of commenters on similar, past rules. We acknowledge that this assumption may understate or overstate the costs of reviewing this interim final rule with comment period. Using the wage information from the Bureau of Labor Statistics (BLS) for medical and health service managers (Code 11–9111), we estimate that the cost of reviewing this interim final rule with comment period is $105.16 per hour, including overhead and fringe benefits (*https://www.bls.gov/oes/current/oes_nat.htm*). Assuming an average reading speed, we estimate that it will take approximately 2 hours for the staff to review this interim final rule with comment period. For each entity that reviews this interim final rule with comment period, the estimated cost is $210.32 (2 hours × $105.16). Therefore, we estimate that the total cost of reviewing this interim final rule with comment period is $21,320 ($210.32 × 100 reviewers).

C. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars_a004_a-4*), in Table 3, we have prepared an accounting statement showing the classification of the transfers and costs associated with the various provisions of this interim final rule with comment period.

TABLE 3—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED TRANSFERS AND COSTS/SAVINGS, WITH ANNUALIZATION PERIOD 2018–2019

DME provisions	
Category	Transfers
Annualized Monetized Transfers	$146 million (7%) or $145 million (3%).
From Whom to Whom	Federal government to Medicare providers.
Increased Beneficiary Co-insurance Payments	$35 million (7%) or 35 million (3%).
From Whom to Whom	Beneficiaries to Medicare providers.

In accordance with the provisions of Executive Order 12866, this rule was reviewed by the Office of Management and Budget.

VIII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (September 19, 1980, Pub. L. 96–354) (RFA) requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions.

Approximately 85 percent of the DME industry are considered small businesses according to the Small Business Administration's size standards with total revenues of $6.5 million or less in any 1 year and a small percentage are nonprofit organizations. Individuals and states are not included in the definition of a small entity. We expect the interim final rule with comment period DME provisions will have a significant impact on small suppliers. A substantial number of small suppliers will benefit from the increased fee schedule amounts. Although not legally required, this interim final rule with comment period will increase payments to small suppliers such that the beneficiaries should have improved access to items.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. Our data indicates that only around 6.9 percent of small rural hospitals are organizationally linked to a DME supplier with paid claims in 2017. Thus, we do not believe this interim final rule with comment period will have a significant impact on operations of a substantial number of small rural hospitals.

IX. Unfunded Mandates Reform Act Analysis

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2018, that threshold is approximately $150 million. The Secretary has determined that UMRA does not apply to this rule in that this rule does not contain mandates that impose spending costs on state, local, or tribal governments in the aggregate.

X. Federalism Analysis

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. The Secretary has determined that this rule does not impose substantial direct requirement costs on state or local governments, preempt states, or otherwise have a Federalism implication.

XI. Reducing Regulation and Controlling Regulatory Costs

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. This interim final rule with comment period is not subject to the requirements of Executive Order 13771 because it is estimated to result in no more than *de minimis* costs.

XII. Congressional Review Act

This rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

List of Subjects in 42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR Chapter IV as set forth below:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(l) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(l)).

■ 2. Section 414.210 is amended by revising paragraph (g)(9) to read as follows.

§ 414.210 General payment rules.

* * * * *

(g) * * *

(9) *Transition rules.* The payment adjustments described above are phased in as follows:

(i) For applicable items and services furnished with dates of service from January 1, 2016 through December 31, 2016, based on the fee schedule amount for the area is equal to 50 percent of the adjusted payment amount established under this section and 50 percent of the unadjusted fee schedule amount.

(ii) For items and services furnished with dates of service from January 1, 2017, through May 31, 2018, and on or after January 1, 2019, the fee schedule amount for the area is equal to 100 percent of the adjusted payment amount established under this section.

(iii) For items and services furnished in rural areas and non-contiguous areas (Alaska, Hawaii, and U.S. territories) with dates of service from June 1, 2018 through December 31, 2018, based on the fee schedule amount for the area is equal to 50 percent of the adjusted payment amount established under this section and 50 percent of the unadjusted fee schedule amount.

(iv) For items and services furnished in areas other than rural or non-contiguous areas with dates of service from June 1, 2018 through December 31, 2018, based on the fee schedule amount for the area is equal to 100 percent of the adjusted payment amount established under this section.

§ 414.402 [Amended]

■ 3. Section 414.402 is amended in paragraph (2) of the definition of ''Item'' by removing the words ''inhalation drugs'' and by adding in their place ''inhalation and infusion drugs''.

§ 414.412 [Amended]

■ 4. Section 414.412(b)(2) is amended by removing the phrase '', or subpart I of this part''.

§ 414.414 [Amended]

■ 5. Section 414.414(f) is amended by removing the words ''or drug'' and the phrase ''or the same drug under subpart I''.

Dated: May 7, 2018.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: May 7, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–10084 Filed 5–9–18; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 147, 153, 154, 155, 156, 157, and 158

[CMS–9930–F]

RIN 0938–AT12

Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on April 17, 2018 entitled ''Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019.''

DATES: *Effective Date:* This correcting document is effective June 18, 2018.

FOR FURTHER INFORMATION CONTACT: Lindsey Murtagh, (301) 492–4106, Rachel Arguello, (301) 492–4263, or Abigail Walker, (410) 786–1725, for general information.

Krutika Amin, (301) 492–5153, for matters related to risk adjustment.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2018–07355 of April 17, 2018 (83 FR 16930), the final rule entitled ''Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019'', there were a number of technical errors in the HHS risk adjustment model factors for adults and infants that are identified and corrected in the Correction of Errors section below. There was also an error in the Collection of Information section. The effective date of the final rule is June 18, 2018.

II. Summary of Errors

The 2019 benefit year final HHS risk adjustment model factors included in the HHS Notice of Benefit and Payment Parameters for 2019 final rule include a few errors in the adult risk adjustment model factors (Table 2) and the infant risk adjustment model factors (Table 5). This correction notice to the final rule amends the final adult and infant risk adjustment model factors for the 2019 benefit year. We have also made the final risk adjustment model factors for the 2019 benefit year for the adult, child and infant models, including corrections to the adult and infant model factors, available at *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Final-HHS–RA-Model-Coefficients.pdf* and *https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/2019-Final-HHS–RA-Model-Coefficients-X.xlsx.*

On page 17043 of the Collection of Information section, in our discussion regarding the submission of PRA related comments, the incorrect delivery information was included.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

This document merely corrects technical and typographic errors in the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2019 final rule that was published on April 17, 2018 and will become effective on June 18, 2018. The changes are not substantive changes to the standards set forth in the final rule. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections is unnecessary. For the reasons stated previously, we find there is good cause to waive notice and comment procedures.

IV. Correction of Errors

In FR Doc. 2018–07355 of April 17, 2018 (83 FR 16930), make the following corrections:

1. On page 16945, the final adult risk adjustment model factors for the 2019 benefit year in Table 2 are corrected for four HCCs labeled as HCC029, HCC034, HCC035 and HCC036 to read as follows.

HCC or RXC No.	Factor	Platinum	Gold	Silver	Bronze	Catastrophic
HCC029	Amyloidosis, Porphyria, and Other Metabolic Disorders.	2.380	2.280	2.200	2.137	2.132
HCC034	Liver Transplant Status/Complications.	10.515	10.418	10.353	10.334	10.331
HCC035	End-Stage Liver Disease	5.696	5.491	5.349	5.341	5.339
HCC036	Cirrhosis of Liver	1.995	1.868	1.780	1.725	1.720

2. On page 16950, the final infant risk adjustment model factors for the 2019 benefit year in Table 5 are corrected for the Age1 * Severity Level 5 (Highest) group to read as follows.

Group	Platinum	Gold	Silver	Bronze	Catastrophic
Age1 * Severity Level 5 (Highest)	54.522	53.855	53.298	53.200	53.192

3. On page 16951, the final infant risk adjustment model factors for the 2019 benefit year in Table 5 are corrected for the Age1 * Severity Level 4, Age1 * Severity Level 3, Age1 * Severity Level 2, Age1 * Severity Level 1 (Lowest), Age 0 Male, and Age 1 Male groups to read as follows.

Group	Platinum	Gold	Silver	Bronze	Catastrophic
Age1 * Severity Level 4	9.637	9.153	8.751	8.495	8.473
Age1 * Severity Level 3	3.058	2.786	2.511	2.263	2.245
Age1 * Severity Level 2	1.960	1.747	1.509	1.246	1.226
Age1 * Severity Level 1 (Lowest)	0.520	0.443	0.330	0.252	0.247
Age 0 Male	0.627	0.584	0.561	0.502	0.495
Age 1 Male	0.106	0.090	0.077	0.052	0.050

4. On page 17043, in the collection of information section, ''We invite public comments on these information collection requirements. If you wish to comment, please submit your comments electronically as specified in the **ADDRESSES** section of this final rule and identify the rule (CMS–9930–F), the ICR's CFR citation, CMS ID number, and OMB control number.'' is corrected to read,

''We invite public comments on these information collection requirements. If you wish to comment, please identify the rule (CMS–9930–F) the ICR's CFR citation, CMS ID number, and OMB control number. Comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs; Attention: CMS Desk Officer; *Fax:* (202) 395–5806 *OR Email: OIRA_submission@omb.eop.gov*.

To obtain copies of a supporting statement and any related forms for the collection(s) summarized in this rule, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.''

Dated: May 7, 2018.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2018–10089 Filed 5–10–18; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 8, and 20

[WC Docket No. 17–108, FCC 17–166]

Restoring Internet Freedom

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Restoring Internet Freedom Declaratory Ruling, Report and Order, and Order* (*Order*)'s transparency rule. This document is consistent with the *Order,* which stated that the Commission would publish a notice in the **Federal Register** announcing the effective date of the refinements to the transparency rule, the delayed amendatory instructions revising the Commission's rules consistent with the *Order,* and the *Order,* which among other things restore the classification of broadband internet access service as an information service, reinstate the private mobile service classification of mobile broadband internet access service, and eliminate the conduct rules imposed by the *Title II Order.*

DATES: The *Order* and amendments to 47 CFR 1.49, 8.1, 8.2, 8.3, 8.5, 8.7, 8.9, 8.11, 8.12, 8.13, 8.14, 8.15, 8.16, 8.17, 8.18, 8.19, and 20.3, published at 83 FR 7852, February 22, 2018, are effective June 11, 2018.

FOR FURTHER INFORMATION CONTACT: Ramesh Nagarajan, Competition Policy Division, Wireline Competition Bureau, at (202) 418–2582, or *Ramesh.Nagarajan@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on May 2, 2018, OMB approved, for a period of three years, the information collection requirements relating to the transparency rule contained in the Commission's *Order,* FCC 17–166, published at 83 FR 7852, February 22, 2018. The OMB Control Number is 3060–1158. The Commission publishes this document as an announcement of the effective date of the refinements to the transparency rule, the delayed amendatory instructions (amendatory instructions 2, 3, 5, 6, and 8 published at 83 FR 7852, February 22, 2018), and the *Order,* which among other things restore the classification of broadband internet access service as an information service, reinstate the private mobile service classification of mobile broadband internet access service, and eliminate the conduct rules imposed by the *Title II Order.* If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please email *PRA@fcc.gov* or contact Nicole Ongele, Federal Communications Commission, at *Nicole.Ongele@fcc.gov* or (202) 418–2991. Please include the OMB Control Number, 3060–1158, in your correspondence.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on May 2, 2018, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 8. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–1158.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1158.

OMB Approval Date: May 2, 2018.

OMB Expiration Date: May 31, 2021.

Title: Transparency Rule Disclosures, Restoring Internet Freedom, Report and Order, WC Docket No. 17–108, FCC 17–166.

Form Number: N/A.

Respondents: Business or other for-profit entities, Not-for-profit entities, State, local, or Tribal governments.

Number of Respondents and Responses: 1,919 respondents; 1,919 responses.

Estimated Time per Response: 26 hours.

Frequency of Response: On-occasion reporting requirement; Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 257 of the Communications Act of 1934, as amended, 47 U.S.C. 257.

Total Annual Burden: 49,894 hours.

Total Annual Cost: $560,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: The *Order* revises the information collection requirements applicable to internet service providers (ISPs). The *Order* requires an ISP to publicly disclose network management practices, performance characteristics, and commercial terms of its broadband

internet access service sufficient to enable consumers to make informed choices regarding the purchase and use of such services, and entrepreneurs and other small businesses to develop, market, and maintain internet offerings. As part of these disclosures, the rule requires ISPs to disclose their congestion management, application-specific behavior, device attachment rules, and security practices, as well as any blocking, throttling, affiliated prioritization, or paid prioritization in which they engage. Specifically, the rule requires ISPs to disclose:

• *Blocking.* Any practice (other than reasonable network management elsewhere disclosed) that blocks or otherwise prevents end user access to lawful content, applications, service, or non-harmful devices, including a description of what is blocked.

• *Throttling.* Any practice (other than reasonable network management elsewhere disclosed) that degrades or impairs access to lawful internet traffic on the basis of content, application, service, user, or use of a non-harmful device, including a description of what is throttled.

• *Affiliated Prioritization.* Any practice that directly or indirectly favors some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, or resource reservation, to benefit an affiliate, including identification of the affiliate.

• *Paid Prioritization.* Any practice that directly or indirectly favors some traffic over other traffic, including through use of techniques such as traffic shaping, prioritization, or resource reservation, in exchange for consideration, monetary or otherwise.

• *Congestion Management.* Descriptions of congestion management practices, if any. These descriptions should include the types of traffic subject to the practices; the purposes served by the practices; the practices' effects on end users' experience; criteria used in practices, such as indicators of congestion that trigger a practice, including any usage limits triggering the practice, and the typical frequency of congestion; usage limits and the consequences of exceeding them; and references to engineering standards, where appropriate.

• *Application-Specific Behavior.* Whether and why the ISP blocks or rate-controls specific protocols or protocol ports, modifies protocol fields in ways not prescribed by the protocol standard, or otherwise inhibits or favors certain applications or classes of applications.

• *Device Attachment Rules.* Any restrictions on the types of devices and any approval procedures for devices to connect to the network.

• *Security.* Any practices used to ensure end-user security or security of the network, including types of triggering conditions that cause a mechanism to be invoked (but excluding information that could reasonably be used to circumvent network security).

The rule also requires ISPs to disclose performance characteristics, including a service description and the impact of non-broadband internet access services data services. Specifically, the rule requires ISPs to disclose a general description of the service—including the service technology, expected and actual access speed and latency, and the suitability of the service for real-time applications—as well as what non-broadband internet access service data services, if any, are offered to end users, and whether and how any non-broadband internet access service data services may affect the last-mile capacity available for, and the performance of, broadband internet access service.

Finally, the rule requires ISPs to disclose commercial terms of service, including price of the service, privacy policies, and redress options. Specifically, the rule requires disclosure of, for example, monthly prices, usage-based fees, and fees for early termination or additional network services; a complete and accurate disclosure about the ISP's privacy practices, if any, including whether any network management practices entail inspection of network traffic, and whether traffic is stored, provided to third parties, or used by the ISP for non-network management purposes; and practices for resolving complaints and questions from consumers, entrepreneurs, and other small businesses. The rule requires ISPs to make such disclosures either via a publicly available, easily accessible website or through transmittal to the Commission, which will make such disclosures available via a publicly available, easily accessible website.

The *Order* eliminates the additional reporting obligations adopted in the *Title II Order* and the related guidance in the 2016 Advisory Guidance and returns to the requirements established in the *Open internet Order.* In addition, the *Order* eliminates the direct notification requirement adopted in the *Title II Order.*

The Commission anticipates that the revised disclosures will empower consumers and businesses with information about their broadband internet access service, protecting the openness of the internet. The information collection will assist the Commission in its statutory obligation to report to Congress on market entry barriers in the telecommunications market.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2018–10063 Filed 5–10–18; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2016–0137; FXES11130900000 189 FF09E42000]

RIN 1018–BB89

Endangered and Threatened Wildlife and Plants; Reclassifying Echinocereus fendleri var. kuenzleri from Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), reclassify *Echinocereus fendleri* var. *kuenzleri* (Kuenzler hedgehog cactus) from endangered to threatened on the Federal List of Endangered and Threatened Plants under the authority of the Endangered Species Act of 1973, as amended (Act). This determination is based on a thorough review of the best available scientific and commercial information, which indicates that the threats to this plant have been reduced to the point that it no longer meets the definition of endangered under the Act, but that it is likely to become an endangered species within the foreseeable future.

DATES: This rule is effective June 11, 2018.

ADDRESSES: This final rule, as well as comments and materials received in response to the proposed rule, are available on the internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0137. Comments and materials we received, as well as supporting documentation used in preparation of this rule, are available for public inspection at *http://www.regulations.gov* and by appointment, during normal business hours, at U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Susan S. Millsap, Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, NM 87113; telephone 505–346–2525; email *nmesfo@fws.gov.* If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

At section 3(16), the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), defines the term ''species'' as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. As such, we may refer to the variety *Echinocereus fendleri* var. *kuenzleri* as a ''species'' in this rule.

Under the Act, a species is an endangered or threatened species based on any one or a combination of the five listing factors established under section 4(a)(1) of the Act: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

After conducting a review of its biological status and threats, we have determined that *Echinocereus fendleri var. kuenzleri* is no longer in danger of extinction throughout all or a signification portion of its range; however, this plant is likely to become endangered within the foreseeable future as a result of wildfire, livestock grazing, effects of climate change (Factor A), illicit collection (Factor B), and small population size and density (Factor E).

We sought comments from independent specialists to ensure that our determination is based on scientifically sound data, assumptions, and analyses. We invited these peer reviewers to comment on our reclassification proposal, and we considered all comments and information we received during the public comment period.

This rule makes final the reclassification of *E. f.* var. *kuenzleri* from an endangered to a threatened species.

Previous Federal Actions

We proposed to list this plant, with the scientific name *Echinocereus hempelii,* as an endangered species under the Act on June 16, 1976 (41 FR 24524), because of threats from the demand by private and commercial collectors, road maintenance and improvements, cattle grazing, and real estate development. On October 26, 1979 (44 FR 61924), we published in the **Federal Register** a final rule listing the plant, with the scientific name *Echinocereus kuenzleri,* as an endangered species. Benson (1982, p. 631) subsequently reduced this species to infraspecific rank as *E. fendleri* var. *kuenzleri.* Based on this nomenclatural change, we accepted the variety *E. fendleri* var. *kuenzleri* and officially changed the name on the List of Endangered and Threatened Wildlife and Plants in 1984 (Service 1984, p. 21). We finalized a recovery plan for this species in March 1985 (Service 1985, entire).

On July 21, 2004, we published a notice (69 FR 43621) announcing that we were conducting a 5-year review of the status of *E. f.* var. *kuenzleri* under section 4(c)(2) of the Act. The 5-year review was completed on June 7, 2005 (Service 2005, entire), and recommended a reclassification of the species from endangered to threatened.

We received a petition dated July 11, 2012, from The Pacific Legal Foundation, Jim Chilton, the New Mexico Cattle Growers' Association, New Mexico Farm and Livestock Bureau, New Mexico Federal Lands Council, and Texas Farm Bureau requesting the Service to reclassify *E. f.* var. *kuenzleri* from endangered to threatened. The petition was based on the analysis and recommendations contained in the 2005 5-year review.

On September 9, 2013 (78 FR 55046), we published in the **Federal Register** a 90-day finding for the 2012 petition to reclassify *E. f.* var. *kuenzleri.* In our 90-day finding, we determined the 2012 petition provided substantial information indicating the petitioned action may be warranted, and we initiated a status review for the plant.

On November 20, 2015, the Service received a complaint (*New Mexico Cattle Growers' Association et al.* v. *United States Department of the Interior et al.,* No. 1:15–cv–01065–PJK–LF (D. N.M.)) for declaratory judgment and injunctive relief from the New Mexico Cattle Growers' Association, Jim Chilton, New Mexico Farm and Livestock Bureau, New Mexico Federal Lands Council, and Texas Farm Bureau to compel the Service to make a 12-month finding on the 2012 petition. We completed an updated 5-year review in 2016 (Service 2016, entire). The 2016 5-year review also recommended a reclassification of the species from endangered to threatened.

On January 6, 2017 (82 FR 1677), we published a proposed rule to reclassify *E. f.* var. *kuenzleri* as threatened, which also constituted our 12-month petition finding that the action requested in the 2012 petition is warranted.

On June 13, 2017 (82 FR 27033), we reopened the comment period on the proposed reclassification of *E. f.* var. *kuenzleri* for 30 days in order to publish a legal notice and to give all interested parties further opportunity to comment on the proposed rule. On June 14, 2017, we published legal notices in Carlsbad and Roswell, New Mexico, newspapers.

Summary of Biological Status and Threats

It is our intent to discuss below only those topics directly relevant to the reclassification of *Echinocereus fendleri* var. *kuenzleri* from endangered to threatened. For a thorough assessment of the species' biology and natural history including limiting factors, species resource needs, and threats, please refer to the Species Status Assessment (SSA) Report (Service 2017, entire), which is available on the internet at *http://www.regulations.gov* at Docket No. FWS–R2–ES–2016–0137.

In the SSA Report, we compile biological data and a description of past, present, and likely future threats (causes and effects) facing *E. f.* var. *kuenzleri.* Because data are limited, some uncertainties are associated with this assessment. Where we have substantial uncertainty, we have attempted to make our necessary assumptions explicit in the SSA Report. We base our assumptions in these areas on the best available scientific and commercial information. The SSA Report does not represent a decision by the Service on whether or not this taxon should be reclassified from an endangered species to a threatened species under the Act. The SSA Report does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its regulations and policies.

In 1979, at the time of listing, fewer than 200 individual plants had been documented at two locations. During inventories from 1976 to 2015, botanists found at least 4,330 *E. f.* var. *kuenzleri.* Most surveyors for *E. f.* var. *kuenzleri* state that the numbers of sightings likely under-represent the current numbers of cacti present because they are small and difficult to detect in the field when not blooming and because survey efforts are limited.

In conducting our SSA, we first considered what *E. f.* var. *kuenzleri*

needs to ensure its viability. We generally define viability as the ability of the species to persist over the long term and to avoid extinction. We next evaluated whether the identified needs of *E. f.* var. *kuenzleri* are currently available and the repercussions to the species when fulfillment of those needs is missing or diminished. We then considered the factors that are causing the species to lack what it needs, including historical, current, and future factors. Finally, considering the information reviewed, we evaluated the current status and future viability of the species in terms of resiliency, redundancy, and representation.

Resiliency is the ability of the species to withstand stochastic events (arising from random factors such as weather or fire) and, in the case of *E. f.* var. *kuenzleri,* is best measured by habitat connectivity. Redundancy is the ability of a species to withstand catastrophic events by spreading the risk and can be measured through the duplication and distribution of resilient populations across the range of *E. f.* var. *kuenzleri.* Representation is the ability of a species to adapt to changing environmental conditions and can be measured by the breadth of genetic diversity within and among populations and the ecological diversity of populations across the species' range. For *E. f.* var. *kuenzleri,* we evaluate representation based on the extent of the geographical range as an indicator of genetic and ecological diversity. The main areas of uncertainty in our analysis include the minimum amount of suitable habitat needed to support resilient populations and the number of populations needed to provide for adequate redundancy and representation.

We evaluated the species over a range of scenarios, from worsening conditions to continuing current conditions to better-than-expected conditions. Under continuing current conditions, the resiliency was determined to be moderate to high, but there was some risk of resiliency falling to a moderate to low level under worsening conditions (Service 2017, pp. 38, 41).

Redundancy has increased based on additional survey effort from the time of listing of 200 individuals at two locations to 11,000–22,000 individuals at 11 locations currently. These populations are spread over 190 kilometers (118 miles) of suitable habitat (Service 2017, p. 10). Based on this additional information, we conclude that there is sufficient redundancy to maintain the species during the timeframe of the SSA's projections.

While we do not know the range of genetic diversity in the species, it occurs over a range of ecological conditions that suggest adequate representation to maintain genetic viability. The number of individuals and populations are consistent with guidelines to conserve genetic diversity (Whitlock et al. 2016, p. 134).

Our overall assessment concluded that *E. f.* var. *kuenzleri* has an overall moderate viability (probability of persistence) in the near term (between now and the next 50 years). In this summary, we present an overview of the comprehensive biological status review. A detailed discussion of the information supporting this overview can be found in the SSA Report (Service 2017, entire).

Summary of Species Requirements

E. f. var. *kuenzleri* is a small cactus that is endemic to the northwest side of the Sacramento and Capitan Mountains in Lincoln County, New Mexico, to the middle of the Guadalupe Mountains in Eddy County, New Mexico. *E. f.* var. *kuenzleri* reaches maturity in around 4 to 5 years of age, flowers in April to June, lives for roughly 30 to 40 years, with an estimated 10 percent annual mortality. *E. f.* var. *kuenzleri* occurs in the lower fringes of the pinion-juniper woodland from about 1,560 to 2,130 meters (5,100 to 6,990 feet) elevation with an average of 180 frost-free days and annual precipitation of about 41 centimeters (16 inches). Occupied habitat consists of gentle slopes (15 to 60 percent) or benches with gravelly to rocky soils and southern, eastern, and western exposures.

E. f. var. *kuenzleri* can be found in soil composed mostly of sand, silt, and a smaller amount of clay particles (loam), containing 35 percent or more (by volume) of rock fragments, cobbles, or gravel (skeletal). This combination of particles and small rock fragments allows for rapid soil drainage. The soil depth ranges from very shallow to very deep, derived from limestone, sandstone, sedimentary rock, igneous rock, or mixed sources (Soil Survey Geographic Database [SSURGO] 2014).

Review of the Recovery Plan

In 1985, we published a recovery plan for *E. f.* var. *kuenzleri* (Service 1985, entire).

The first downlisting criterion in the recovery plan states that *E. f.* var. *kuenzleri* could be reclassified to threatened status when existing natural populations are increased to approximately 5,000 individual plants and when that population level is maintained for a period of 5 consecutive years (Service 1985, p. iii). The second downlisting criterion in the 1985 recovery plan is based on the need for the Service to remove the collecting pressure to offset the threat of illegal collection.

The first criterion was intended to address the point at which imminent threats to the plant had been reduced so that the populations were no longer in immediate risk of extirpation. Since its listing in 1979, estimated abundance of individuals in all populations has changed over time from approximately 200 individuals to a current known status of 11 populations with 4,330 plants observed (1976–2015) (Service 2005, p. 4; Service 2016, pp. 34). Because of the difficulty in locating nonflowering plants and limited survey efforts, we used a habitat suitability model in the SSA to estimate the population size (Service 2017, Appendix B). This model resulted in an estimated total population of between 11,000–20,000 individuals occurring across the range of the species (Service 2017, p. 13).

The second recovery criterion is to remove the collecting pressure by promoting commercial propagation. Regardless of its commercial availability, we believe that local populations, especially near the type locality (location where the description and name of a new species is based), may continue to be impacted by occasional poaching from growers and hobbyists. This conclusion is based on recent observations of illegal collection (Baggao 2017, p. 1). Data that we have analyzed indicate that most threats identified in the recovery plan have been reduced or eliminated in areas occupied by *E. f.* var. *kuenzleri.* As discussed in the SSA Report, the status of the species has improved since the 1985 recovery plan, primarily based on finding additional populations over a broader range. However, the SSA Report also discusses additional threats to the species, primarily associated with fire regime alteration and climate change effects (*i.e.,* lengthening of drought duration, increased temperatures, less precipitation, and increased evaporative deficit) (Service 2017, pp. 16–21), that are likely to impact the species.

Summary of Factors Affecting *Echinocereus fendleri* var. *kuenzleri*

At the time of listing, the primary threats to *E. f.* var. *kuenzleri* were private and commercial collection, road improvement and maintenance, real estate development, and livestock grazing (44 FR 61924; October 26, 1979). In the 1985 recovery plan, we concluded these same threats continued to impact the species (Service 1985, pp.

8–12). Subsequently, in 2005 and 2016, we conducted 5-year status reviews (Service 2005, pp. 12–14; Service 2016, p. 5). The 2005 5-year status review found that the threat of habitat loss from road improvement and maintenance and real estate development (Factor A), and a direct threat from illegal collection (Factor B), have been reduced or eliminated since the time of listing, and are no longer affecting the status of the species. Livestock grazing (Factor A) continued to be a threat by trampling in areas that are improperly managed. The 2005 5-year review also identified an additional threat of fire based on the alteration of the natural fire regime (Service 2005, p. 13). The 2016 5-year status review identified climate change effects (*i.e.,* lengthening of drought duration, increased temperatures, less precipitation, and increased evaporative deficit) as additional threats to the species. *E. f.* var. *kuenzleri* requires 41 centimeters (16 inches) or more of rain annually to persist. Drought has impacted several populations and long-term trends indicate increased temperatures and a decrease in precipitation within the range of the cactus (Service 2016, pp. 10–11). The SSA Report identified wildfire (Service 2017, p. 17), livestock grazing (Service 2017, pp. 17–18), effects of climate change (Service 2017, pp. 20–21) (Factor A), illicit collection (Service 2017, p. 19) (Factor B), and small population size and density (Service 2017, p. 20) (Factor E) as continuing or additional threats to the species.

Summary of Comments on Proposed Rule

In the proposed rule published on January 6, 2017 (82 FR 1677), we requested that all interested parties submit written comments by March 7, 2017. On June 13, 2017 (82 FR 27033), we reopened the comment period for 30 days in order to give all interested parties further opportunity to comment on the proposed rule. We received 16 comment letters on the proposed reclassification of *E. f.* var. *kuenzleri.* All substantive comments are either incorporated directly into this rule or the SSA Report, or are addressed below.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited independent expert opinion on the SSA Report (Service 2017, entire) from five individuals with scientific and conservation expertise that included familiarity with *E. f.* var. *kuenzleri* and its habitat, biological needs, and threats to the species. We received responses from four of the five peer reviewers. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the status of *E. f.* var. *kuenzleri.* All substantive information provided during peer review is either incorporated directly into this rule or the SSA Report, or is addressed below.

Peer Review Comments

Comment: Several commenters raised concerns about the population estimate provided in the SSA Report. These comments questioned the population density values, the minimal ground truthing associated with the population estimate, and the level of uncertainty in the population estimation. According to the commenters, these factors led to an over-estimation of population numbers.

Response: We acknowledge that there is some uncertainty in the population estimate. However, this estimate was based on the best scientific and commercial data available. We consider the model-based population estimate to be reasonably conservative as described in the SSA Report. As part of continuing recovery efforts, we will work with Bureau of Land Management (BLM), U.S. Forest Service (USFS), and private landowners to further ground-truth the habitat model and refine the density and population estimates, as appropriate, and to incorporate changes into an updated recovery plan.

Comment: One commenter pointed out that fire regime data for *E. f.* var. *kuenzleri* habitat are lacking and not supportive of prescribed fire to manage fuel loads.

Response: We discuss the role of fire and assess its effects to the species in the SSA Report (Service 2017, p. 17) based on the best scientific and commercial data available. Overall, we believe additional prescribed fire would be beneficial to the species and reduce the risk of catastrophic fires. The commenter did not provide additional fire regime information to incorporate into our analysis.

Comment: One commenter raised concerns about the inclusion of asynchronous flowering (flowers not blooming at the same time) as a threat.

Response: Inclusion of this threat in the SSA Report was based on preliminary anecdotal information that asynchronous flowering may be occurring in the species and this might affect reproductive success. We found no substantive data that this is a threat. Based on this comment and additional analysis by the Service, we revised the SSA Report to remove discussion of asynchronous flowering as a threat.

Comment: Several commenters raised concern about readers potentially using the modeled population estimate out of context or scope.

Response: In the SSA Report, we clearly describe the scope and intent of the information provided in the habitat model used to estimate a reasonably conservative population estimate, with a disclaimer against improper use of the model.

Public Comments

Comment: Multiple commenters raised concerns about insufficient information and data provided to justify the downlisting of *E. f.* var. *kuenzleri.* For example, some commenters suggested that population trend data do not support a downlisting decision. Several comments raised concerns about climate change and drought as a significant threat to the species. In addition, several commenters raised concerns about livestock grazing, fire, and invasive species as significant threats to the plant, and stated that there are insufficient data on threats, as well as threats not having been fully analyzed.

Response: Based on the 5-year reviews and the SSA Report, we found *E. f.* var. *kuenzleri* is more widespread and numerous than when listed and conclude that it no longer meets the Act's definition of endangered. At the same time, we conclude that, based on threats continuing to impact the species, the species is likely to become in danger of extinction in the foreseeable future and, therefore, it should be reclassified as threatened.

We acknowledge in the SSA Report that the population trend data are limited. For this reason, we reviewed all available scientific and commercial data to help determine if the species is at risk of extinction in the foreseeable future. Based on available survey, observation, and trend data, and current and projected threats, we determine that *E. f.* var. *kuenzleri* is more widespread and numerous than when listed. Additionally, in our proposed rule and SSA Report (Service 2017, entire), we analyzed the biological and habitat requirements, threats, and viability of *E. f.* var. *kuenzleri* and found the species to have sufficient resiliency, redundancy, and representation. We also analyzed the climate change models specific to the occupied area (Service 2017, p. 20). This analysis was included in our overall assessment of the species' risk of extinction.

Comment: One commenter stated that downlisting should exempt the species from the take prohibition; application of the take prohibition to all threatened species is contrary to the text and purpose of the Act.

Response: With respect to threatened plants, 50 CFR 17.71(a) provides that all of the provisions in 50 CFR 17.61 shall apply to threatened plants, with one exception discussed below. We have concluded that no modifications to these prohibitions are appropriate for this species because there is continued threat of collection.

These provisions make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. However, there is the following exception for threatened plants: Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of 50 CFR 17.61, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container during the course of any activity otherwise subject to these regulations. Exceptions to these prohibitions are outlined in 50 CFR 17.72.

We may issue permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.72. With regard to threatened plants, a permit issued under this section must be for one of the following: Scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act.

Comment: One commenter stated that the plant may merit being delisted from the Federal List of Endangered and Threatened Plants entirely. Another comment suggested that delisting criteria must be developed.

Response: Our SSA Report analyzes the biological and habitat requirements, threats, and viability of *E. f.* var. *kuenzleri* (Service 2017, entire), and found that threats still exist to the species. As such, we concluded that the species is likely to be at risk of extinction in the foreseeable future. The Service anticipates establishing delisting criteria and recovery actions based on the best scientific and commercial data available and information in the SSA Report. Information in the SSA Report supports our decision to reclassify *E. f.* var. *kuenzeleri* to a threatened species.

Comment: Several commenters raised concerns about the outdated recovery plan. Alternatively, others commenters stated that the downlisting criteria in the recovery plan have not been met.

Response: We acknowledge the 1985 Recovery Plan that was developed according to guidance at the time, which includes biological factors, conservation measures, and threats (Service 1985, entire), does not conform to all current standards and guidance for recovery planning, as was recognized in the 2016 5-year review of this species (Service 2016, p. 6). The Service intends to develop an updated recovery plan in fiscal year 2019 with delisting criteria and recovery actions based on the SSA Report and any new information that may become available from monitoring and research.

While meeting the recovery criteria is not required for reclassification, we considered the applicable criteria in this determination. The criteria for downlisting to ''threatened'' in the Recovery Plan are: (1) To secure and maintain a wild population level of 5,000 individual plants for a period of 5 consecutive years, and (2) to remove the collecting pressure by promoting commercial propagation (Service 1985, pp. iii, 21). In the 2016 5-year review, 11 populations with 4,330 plants had been observed (1976–2015) (Service 2016, pp. 3–4). In the SSA Report, based on the best scientific and commercial data available, we estimate a current population estimate of 11,000–20,000 individuals (Service 2017, p. 13). We consider this a conservative estimate. Also, a large area of suitable habitat has been identified that has not been surveyed.

Comment: Several commenters recommended that it would be appropriate to designate critical habitat for this cactus.

Response: The Service analyzed designating critical habitat in the listing rule (44 FR 61924, October 26, 1979, see p. 61926). The listing rule found it was not prudent to determine critical habitat because publication of critical habitat maps would make this species more vulnerable to taking. The plant has been and continues to be threatened by illegal collection (44 FR 61924, October 26, 1979; Service 2017, p. 19). Publication of designated critical habitat has the potential to make the species more vulnerable to collection by highlighting occupied locations; therefore, it remains inappropriate to designate critical habitat.

Comment: One commenter stated that the taxonomic status of the species has not been definitively settled.

Response: Although there is scientific debate regarding the classification of *Echinocereus fendleri* Englemann variety *kuenzleri* (Integrated Taxonomic Information System, *http://www.itis.gov,* accessed December 1, 2017), we conclude that the most recent taxonomic examinations by Baker (2007, entire), and Felix et al. (2014, entire) constitute the best available taxonomic information, and maintain the species at its current taxonomic level. We are planning to conduct a genetic study to help resolve the taxonomy of this cactus (Service 2014, p. 44).

Comment: Another commenter indicated that prescribed fires have a high potential to negatively impact these cacti and their reproductive potential.

Response: The threat of fire was analyzed in the January 6, 2017, proposed rule (82 FR 1677) and the SSA Report. Wester and Britton (2007, p. 11) studied the effect of prescribed burns as a means of reducing wildfire risk, and found no evidence that the species was negatively affected by prescribed fire because of the lower burn intensity. The comment does not offer additional scientific information to alter the conclusions in the SSA Report related to prescribed fire as a threat to the species.

Comment: Several comments raised concerns about distribution, abundance, and viability of the species' population. For example, some commenters suggested that without comprehensive rangewide surveys, the full extent and abundance of the species cannot be determined. Several comments raised concerns about the absence of trend data. In addition, a commenter raised concerns about the viability of the known populations.

Response: We analyzed in our January 6, 2017, proposed rule (82 FR 1677) and SSA Report (Service 2017, entire) the biological and habitat requirements, threats, and viability of *E. f.* var. *kuenzleri* and found the species to have: A population size necessary to endure stochastic environmental variation; the number and geographic distribution of populations or sites necessary to endure catastrophic events; and the ecological diversity, both within and among populations, necessary to conserve long-term adaptive capability in its current populations. As required by the Act, we have based the SSA Report and this reclassification decision on the best

available scientific and commercial data.

Comment: One commenter stated that inadequate regulatory mechanisms fail to direct adequate resources towards sufficient documentation of the species' status.

Response: The comment does not identify what additional regulatory mechanisms would potentially offset an identified threat to the species. As required by the Act, we have based the SSA Report and this reclassification decision on the best available scientific and commercial data. We plan on developing a monitoring plan with our partners (BLM and USFS) to obtain additional information to further inform the species' status and development of delisting criteria (Service 2017, p. 44).

Comment: One commenter indicated that there is a need to fill data gaps by developing monitoring and research studies.

Response: In our SSA Report (Service 2017, entire), we acknowledge the need for a quantitative monitoring program, sufficient demographic information to complete a population viability analysis, and genetic analysis. We anticipate working with land management agencies to develop a comprehensive habitat management plan, establish a monitoring plan, and conduct genetic research for this species (Service 2017, p. 44).

Comment: One commenter raised the concern that limited distribution, range, and population size makes the species vulnerable to stochastic events.

Response: We analyzed in our January 6, 2017, proposed rule (82 FR 1677) and SSA Report (Service 2017, entire) the biological and habitat requirements, threats, and viability of *E. f.* var. *kuenzleri* and found the species to have: A population size necessary to endure stochastic environmental variation; the number and geographic distribution of populations or sites necessary to endure catastrophic events; and the ecological diversity, both within and among populations, necessary to conserve long-term adaptive capability in its current populations. As required by the Act, we have based the SSA Report and this reclassification decision on the best available scientific and commercial data.

Summary of Changes From the Proposed Rule

We have made no meaningful changes from the January 6, 2017, proposed rule (82 FR 1677). We have made updates to the final SSA Report based on information contained in peer review and public comments.

Reclassification Analysis

Under section 4 of the Act, we administer the Federal Lists of Endangered and Threatened Wildlife and Plants, which are set forth in title 50 of the Code of Federal Regulations at part 17 (50 CFR 17.11 and 17.12). We can determine, on the basis of the best scientific and commercial data available, whether a species may be listed, delisted, or reclassified as described in 50 CFR 424.11.

The determination of whether a species is endangered or threatened under the Act is based on if a species is in danger of extinction or likely to become so in the foreseeable future because of any one or a combination of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. As required by section 4(a)(1) of the Act, we conducted a review of the status of this plant and assessed the five factors to evaluate whether *E. f.* var. *kuenzleri* is endangered or threatened throughout all or a significant portion of its range. We examined the best scientific and commercial information available regarding the past, present, and future threats to *E. f.* var. *kuenzleri.*

In considering factors that might constitute threats to a species, we must look beyond the exposure of the species to a factor to evaluate whether the species responds to the factor in a way that causes impacts to the species or is likely to cause impacts in the future. If a species responds negatively to such exposure, the factor may be a threat and, during the status review, our aim is to determine whether impacts are or will be of an intensity or magnitude to place the species at risk. The factor is a threat if it drives, or contributes to, the risk of extinction of the species such that the species warrants listing as an endangered or threatened species as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely affected could suffice. In sum, the mere identification of factors that could affect a species negatively is not sufficient to compel a finding that reclassification is appropriate; we require evidence that these factors act on the species to the point that the species meets the definition of an endangered or threatened species.

Using the SSA framework, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the species and considered what *E. f.* var. *kuenzleri* needs to maintain viability. As a result of recent information, we know that there are 11 known populations of *E. f.* var. *kuenzleri* compared to only 2 that were known at the time of listing. Individual cacti are spread across a wide range of suitable habitat patches. Significant impacts at the time of listing such as overcollection or residential development that could have resulted in the extirpation of all or parts of populations have been reduced since listing. The long-term impacts of wildfire, livestock grazing, effects of climate change (Factor A), illicit collection (Factor B), and small population size and density (Factor E) throughout the range of the species were assessed in our SSA Report. Data indicate an increase in temperature (6–8 percent), a decrease in precipitation (-2 percent) and a substantial increase in evapotranspiration deficit (18–29 percent) within the occupied range of *E. f.* var. *kuenzleri* over the next 50 years (Service 2018, entire). We anticipate that effects due to climate change (such as a decrease in precipitation and a substantial increase in evapotranspiration deficit), fire, and increased drought, and the compounding effects of these threats, including any associated threats such as increased herbivory and predation will impact all of the populations in the foreseeable future. The New Mexico threatened and endangered plant regulations also do not protect *E. f.* var. *kuenzleri* or its habitats on private lands, with the exception of plant collection not authorized by the landowner (Factor D). We chose 50 years as the foreseeable future to evaluate what is likely to occur within the range of the available climate change model forecasts.

Determination of Status

Introduction

Section 4 of the Act (16 U.S.C. 1533), and its implementing regulations at 50 CFR part 424, set forth the procedures for determining whether a species is an endangered species or threatened species and should be included on the Federal Lists of Endangered and Threatened Wildlife and Plants (listed). The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to

become endangered throughout all or a significant portion of its range within the foreseeable future.'' On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578). In our policy, we interpret the phrase ''significant portion of its range'' in the Act's definitions of ''endangered species'' and ''threatened species'' to provide an independent basis for listing a species in its entirety; thus there are two situations (or factual bases) under which a species would qualify for listing: A species may be in danger of extinction or likely to become so in the foreseeable future throughout all of its range; or a species may be in danger of extinction or likely to become so throughout a significant portion of its range. If a species is in danger of extinction throughout an SPR, the species is an ''endangered species.'' The same analysis applies to ''threatened species.''

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. Under section 4(a)(1) of the Act, we determine whether a species is an endangered species or threatened species because of any one or a combination of the following: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. These five factors apply whether we are analyzing the species' status throughout all of its range or throughout a significant portion of its range.

Determination of Status Throughout All of Its Range

As required by the Act, we carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to *E. f.* var. *kuenzleri.* Based on the analysis in the SSA Report, and information summarized above, we have determined that *E. f.* var. *kuenzleri's* current viability is higher than was known at the time of listing, and we find that *E. f.* var. *kuenzleri* is no longer in danger of extinction throughout all of its range. However, threats from wildfire, livestock grazing, effects of climate change (Factor A), illicit collection (Factor B), and small population size and density (Factor E) continue, despite the existing regulatory mechanisms (Factor D) and conservation efforts. Therefore, we find that *E. f.* var. *kuenzleri* is likely to become endangered within the foreseeable future throughout all of its range.

Determination of Status Throughout a Significant Portion of Its Range

Because we found that *E. f.* var. *kuenzleri* is likely to become in danger of extinction in the foreseeable future throughout all of its range, per the Service's Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578, July 1, 2014) (SPR Policy), no portion of the species' range can be ''significant'' for the purposes of the definitions of endangered and threatened species. Therefore, we do not need to conduct an analysis of whether there is any significant portion of its range because the species is likely to become in danger of extinction in the foreseeable future.

Conclusion

In conclusion, the previously recognized impacts to *E. f.* var. *kuenzleri* from the present or threatened destruction, modification, or curtailment of its habitat or range (specifically, residential development and road maintenance) (Factor A); overutilization for commercial, recreational, scientific, or educational purposes (Factor B); disease or predation (Factor C); and other natural or manmade factors affecting its continued existence (specifically, reproductive isolation) (Factor E) do not, either individually or in combination, currently place the species in danger of extinction. However, due to continued threats from wildfire, livestock grazing, effects of climate change (Factor A), illicit collection (Factor B), and small population size and density (Factor E), despite the existing regulatory mechanisms (Factor D) and conservation efforts, we find that *E. f.* var. *kuenzleri* is likely to become endangered within the foreseeable future throughout all of its range. Therefore, on the basis of the best available scientific and commercial information, we are reclassifying *E. f.* var. *kuenzleri* as a threatened species in accordance with section 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. As we revise the recovery plan to include delisting criteria, the recovery outline, draft revised recovery plan, and the final recovery plan will be made available on our website (*http://www.fws.gov/endangered*), or from our New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes,

nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and re-introduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.* Please let us know if you are interested in participating in recovery efforts for *E. f.* var. *kuenzleri.* Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include issuance of Federal permits. With respect to threatened plants, 50 CFR 17.71 provides that all of the provisions in 50 CFR 17.61 shall apply to threatened plants. These provisions make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or to remove and reduce to possession any such plant species from areas under Federal jurisdiction. In addition, the Act prohibits malicious damage or destruction of any such species on any area under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of any such species on any other area in knowing violation of any State law or regulation, or in the course of any violation of a State criminal trespass law. However, there is the following exception for threatened plants. Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of 50 CFR 17.61, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container during the course of any activity otherwise subject to these regulations. Exceptions to these prohibitions are outlined in 50 CFR 17.72.

We may issue permits to carry out otherwise prohibited activities involving threatened plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.72. With regard to threatened plants, a permit issued under this section must be for one of the following: Scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act.

Under section 4(d) of the Act, the Secretary has discretion to issue protective regulations to provide for the conservation of threatened species. Our implementing regulations (50 CFR 17.71) for threatened plants generally incorporate the prohibitions of section 9 of the Act for endangered plants, except when a rule promulgated pursuant to section 4(d) of the Act has been issued with respect to a particular threatened species. In such a case, the general prohibitions in 50 CFR 17.61 would not apply to that species, and instead, the 4(d) rule would define the specific prohibitions and exceptions that would apply for that particular threatened species. With respect to a threatened plant, the Secretary of the Interior also has the discretion to prohibit by regulation any act prohibited by section 9(a)(2) of the Act. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened species at 50 CFR 17.71 and exceptions to those prohibitions at 50 CFR 17.72. We have determined to not promulgate a rule under section 4(d) of the Act for *E. f.* var. *kuenzleri,* and as a result, all of the Act's section 9(a)(2) general prohibitions, including the ''take'' prohibitions, will continue to apply to *E. f.* var. *kuenzleri* when this rule goes into effect.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a listing on proposed and ongoing activities within the range of listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements this list is not comprehensive:

(1) Normal agricultural and silvicultural practices, including herbicide and pesticide use, which are carried out in accordance with any existing regulations, permit and label requirements, and best management practices; and

(2) Normal residential landscape activities.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Effects of This Rule

This rule revises 50 CFR 17.12(h) to reclassify *E. f.* var. *kuenzleri* from endangered to threatened on the List of Endangered and Threatened Plants. On the effective date of this rule (see **DATES**, above), the prohibitions and conservation measures provided by the Act, particularly through sections 7 and 9, continue to apply to *E. f.* var. *kuenzleri.* Federal agencies are required to consult with the Service under section 7 of the Act in the event that activities they authorize, fund, or carry out may affect *E. f.* var. *kuenzleri.*

As applicable, recovery actions directed at *E. f.* var. *kuenzleri* will continue to be implemented as outlined in the recovery plan for this taxon (Service 1985, entire). One of the primary actions will be to develop revised recovery plan with delisting criteria for the cactus based on the SSA Report (Service 2017, p. 44).

Required Determinations

National Environmental Policy Act

We determined we do not need to prepare an environmental assessment or an environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2016–0137, or upon request from the Field Supervisor, New Mexico Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary author of this rule is the New Mexico Ecological Services Field Office Southwest Regional Office in Albuquerque, New Mexico, in coordination with the Southwest Regional Office in Albuquerque, New Mexico (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12(h) by revising the entry for ''*Echinocereus fendleri* var. *kuenzleri*'' under FLOWERING PLANTS in the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Echinocereus fendleri var. *kuenzleri*.	Kuenzler hedgehog cactus	Wherever found	T	44 FR 61924, 10/26/1979; 83 FR [Insert **Federal Register** page where the document begins], 5/11/2018.
*	*	*	*	*

Dated: May 1, 2018.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, Exercising the Authority of the Director U.S. Fish and Wildlife Service.

[FR Doc. 2018–10034 Filed 5–10–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XG216

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason General category retention limit adjustment.

SUMMARY: NMFS is adjusting the Atlantic bluefin tuna (BFT) General category daily retention limit from the default limit of one large medium or giant BFT to three large medium or giant BFT for June 1 through August 31, 2018. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic Tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels with a commercial sale endorsement when fishing commercially for BFT.

DATES: Effective June 1, 2018, through August 31, 2018.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, (978) 281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments, and in accordance with implementing regulations. NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

The current baseline U.S. quota is 1,058.9 mt (not including the 25 mt ICCAT allocated to the United States to account for bycatch of BFT in pelagic longline fisheries in the Northeast Distant Gear Restricted Area). See § 635.27(a). The current baseline General category quota is 466.7 mt. Each of the General category time periods (''January,'' June through August, September, October through November, and December) is allocated a portion of the annual General category quota. Although it is called the ''January'' subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes

first. The current baseline subquotas for each time period are as follows: 24.7 mt (5.3 percent) for January; 233.3 mt (50 percent) for June through August; 123.7 mt (26.5 percent) for September; 60.7 mt (13 percent) for October through November; and 24.3 mt (5.2 percent) for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one time period to the next, and is available for use in subsequent time periods. This action would adjust the daily retention limit for the second time period in 2018, June through August.

Although the 2017 ICCAT recommendation regarding western Atlantic bluefin tuna management would result in an increase to the baseline U.S. bluefin tuna quota (*i.e.,* from 1,058.79 mt to 1,247.86 mt) and subquotas for 2018 (including an expected increase in General category quota from 466.7 mt to 555.7 mt, consistent with the annual bluefin tuna quota calculation process established in § 635.27(a)), domestic implementation of that recommendation will take place in a separate rulemaking, likely to be finalized in mid-2018.

Adjustment of General Category Daily Retention Limit

Unless changed, the General category daily retention limit starting on June 1 would be the default retention limit of one large medium or giant BFT (measuring 73 inches (185 cm) curved fork length (CFL) or greater) per vessel per day/trip (§ 635.23(a)(2)). This default retention limit would apply to General category permitted vessels and to HMS Charter/Headboat category permitted vessels when fishing commercially for BFT.

Under § 635.23(a)(4), NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range of zero to a maximum of five per vessel based on consideration of the relevant criteria provided under § 635.27(a)(8). NMFS has considered these criteria and their applicability to the General category BFT retention limit for June through August 2018. These considerations include, but are not limited to, the following:

Regarding the usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock (§ 635.27(a)(8)(i)), biological samples collected from BFT landed by General category fishermen and provided by BFT dealers continue to provide NMFS with valuable data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the collection of a broad range of data for these studies and for stock monitoring purposes.

NMFS also considered the catches of the General category quota to date (including landings and catch rates during the last several years) and the likelihood of closures for the General category if no adjustment is made (§ 635.27(a)(8)(ii)). Commercial-size BFT are anticipated to migrate to the fishing grounds off the northeast U.S. coast by early June. Based on General category catch rates during the June through August time period over the last several years, it is unlikely that the June through August subquota will be filled with the default daily retention limit of one BFT per vessel. NMFS set the June through August 2017 time period limit at four fish initially and reduced it to one fish effective August 5 through August 16, when NMFS closed the fishery until the start of the September 2017 quota subperiod. Due to a combination of fish availability and extremely favorable fishing conditions, NMFS needed to close the General category fishery in each of the subquota time periods (September, October–November, and December) to allow for harvest of the subsequent subquotas without exceeding the adjusted General category quota while simultaneously maintaining equitable distribution of fishing opportunities. NMFS is setting the June through August 2018 limit in such a way that NMFS believes, informed by past experience, increases the likelihood that the fishery will remain open throughout the subperiod and year.

NMFS also considered the effects of the adjustment on BFT rebuilding and overfishing and the effects of the adjustment on accomplishing the objectives of the FMP (§ 635.27(a)(8)(v) and (vi)). The adjusted retention limit would be consistent with the established quotas and with objectives of the 2006 Consolidated HMS FMP and amendments and is not expected to negatively impact stock health or to affect the stock in ways not already analyzed in those documents. It is also important that NMFS limit landings to the subquotas both to adhere to the FMP quota allocations and to ensure that landings are as consistent as possible with the pattern of fishing mortality (*e.g.,* fish caught at each age) that was assumed in the projections of stock rebuilding.

Another principal consideration in setting the retention limit is the objective of providing opportunities to harvest the full General category quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and amendments, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations (related to § 635.27(a)(8)(x)). Adjustment of the retention limit is also supported by the Environmental Analysis for the 2011 final rule regarding General and Harpoon category management measures, which increased the General category maximum daily retention limit from three to five fish.

Despite elevated General category limits, the vast majority of successful trips (*i.e.,* General or Charter/Headboat trips on which at least one BFT is landed under General category quota) land only one or two BFT. For instance, the landings data for 2017 show that, under the four-fish limit that applied June 1 through August 4, the proportion of trips that landed one, two, three, or four bluefin tuna was as follows: 68 percent landed one; 20 percent landed two; 6 percent landed three; and 6 percent landed four. In the last few years, NMFS has received conflicting comments that a high daily retention limit (specifically five fish) is needed to optimize General category fishing opportunities and account for seasonal distributions by enabling vessels to make overnight trips to distant fishing grounds. Others have noted that a higher General category limit at the start of the June–August period would reduce the likelihood of effort shifting into the Harpoon category, which has a relatively small quota. NMFS also has received general comment that a lower limit increases the likelihood that opportunities will extend through the late fall and the end of the calendar year, as well as improve market conditions. Requests also will vary depending on actual fish behavior, weather, and availability (*i.e.,* abundance and proximity to shore) in any given year.

NMFS anticipates that some underharvest of the 2017 adjusted U.S. BFT quota will be carried forward to 2018 to the Reserve category, in accordance with the regulations, this summer when complete BFT catch information for 2017 is available and finalized. Because such quota would be available to be transferred from the Reserve category to the General category, and such transfers have occurred in the past, the carryover of underharvest would make it more likely that General category quota will remain available through the end of 2018 for December fishery participants, despite the transfer of 14.3 mt from the 24.3-mt General category December 2018

subquota period to the January 2018 period (81 FR 91873, December 19, 2016). General category landings were relatively high in the summer and fall of 2017, due to a combination of fish availability, favorable fishing conditions, and higher daily retention limits. NMFS transferred 156.4 mt from the Reserve category (82 FR 46000, October 3, 2017) and later transferred another 25.6 mt from the Harpoon category (82 FR 55520, November 22, 2017). Although NMFS needed to close the September and the October–November fisheries effective September 17 and October 5, respectively, to prevent further overharvest of the adjusted 2017 General category subquotas, NMFS anticipates that General category participants in all areas and time periods will have opportunities to harvest the General category quota in 2018, through more proactive inseason management such as retention limit adjustments and/or the timing and amount of quota transfers (based on consideration of the determination criteria regarding inseason adjustments), as practicable. NMFS will closely monitor General category catch rates associated with the various authorized gear types (*e.g.,* harpoon, rod and reel) during the June through August period and actively adjust the daily retention limit as appropriate to enhance scientific data collection from, and ensure fishing opportunities in all respective time-period subquotas as well as ensure available quota is not exceeded.

A limit lower than three fish at the start of the June through August period could result in diminished fishing opportunities for those General category vessels using harpoon gear based on past fish behavior early in the season. Lower limits may also result in effort shifts from the General category to the Harpoon category, which could result in premature closure of the Harpoon category, and potentially additional inseason adjustments. General category harpoon gear participants land approximately five percent of the General category landings each year and these landings occur early in the season. A three-fish retention limit for an appropriate period of time will provide a greater opportunity to harvest the June through August subquota with harpoon gear without exceeding it while also maintaining equitable distribution of fishing opportunities for harpoon and rod and reel participants. NMFS also considered general input on 2018 General category limits from the HMS Advisory Panel at its March 2018 meeting. Based on these considerations, we have determined that a three-fish General category retention limit is warranted for the beginning of the June–August 2018 subquota period. These retention limits are effective in all areas, except for the Gulf of Mexico, where targeted fishing for bluefin tuna is prohibited.

Based on these considerations, NMFS has determined that a three-fish General category retention limit is warranted for the June–August 2018 subquota period. This limit would provide a reasonable opportunity to harvest the full U.S. BFT quota (including the expected increase in available 2018 quota based on 2017 underharvest), without exceeding it, while maintaining an equitable distribution of fishing opportunities; help optimize the ability of the General category to harvest its full quota; allow the collection of a broad range of data for stock monitoring purposes; and be consistent with the objectives of the 2006 Consolidated HMS FMP and amendments. Therefore, NMFS increases the General category retention limit from the default limit (one) to three large medium or giant BFT per vessel per day/trip, effective June 1, 2018, through August 31, 2018.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example (and specific to the June through August 2018 limit), whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of four fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, where NMFS prohibits targeting fishing for BFT, and applies to those vessels permitted in the General category, as well as to those HMS Charter/Headboat permitted vessels with a commercial sale endorsement when fishing commercially for BFT fishing commercially for BFT. For information regarding the HMS Charter/Headboat commercial sale endorsement, see 82 FR 57543, December 6, 2017.

Monitoring and Reporting

NMFS will actively monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. In addition, General and HMS Charter/Headboat vessel owners are required to report their own catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the Android or iPhone app. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustments are necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978) 281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The timing of this rulemaking will allow approximately two weeks' prior notice to the regulated community. Affording additional prior notice and an opportunity for public comment on the change in the daily retention limit from the default level for the June through August 2018 subquota period would be impracticable. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, responsive adjustment to the General category BFT daily retention limit from the default level is warranted to allow fishermen to take advantage of availability of fish and of quota. NMFS could not have proposed these actions earlier, as it needed to consider and respond to updated data and information about fishery conditions and this year's landings. If NMFS was to offer a public comment period now, after having appropriately considered that data, it would preclude fishermen from harvesting BFT that are legally available consistent with all of the regulatory criteria, and/or could result in selection of a retention limit inappropriate to the amount of quota available for the period.

Fisheries under the General category daily retention limit will commence on June 1 and thus prior notice would be contrary to the public interest. Delays in increasing these retention limits would adversely affect those General and Charter/Headboat category vessels that would otherwise have an opportunity to harvest more than the default retention limit of one BFT per day/trip and may result in low catch rates and quota

rollovers. Analysis of available data shows that adjustment to the BFT daily retention limit from the default level would result in minimal risks of exceeding the ICCAT-allocated quota. NMFS provides notification of retention limit adjustments by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.* With quota available and fish available on the grounds, and with no expected impacts to the stock, it would be contrary to the public interest to require vessels to wait to harvest the additional fish allowed through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment.

Adjustment of the General category retention limit needs to be effective June 1, 2018, or as soon as possible thereafter, to minimize any unnecessary disruption in fishing patterns, to allow the impacted sectors to benefit from the adjustment, and to not preclude fishing opportunities for fishermen in geographic areas with access to the fishery only during this time period. Foregoing opportunities to harvest the respective quotas may have negative social and economic impacts for U.S. fishermen that depend upon catching the available quota within the time periods designated in the 2006 Consolidated HMS FMP and amendments. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.23(a)(4) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 7, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–09960 Filed 5–8–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 120416010–2476–01]

RIN 0648–XG160

Pacific Island Fisheries; Closure of the 2018 Hawaii Shallow-Set Longline Fishery; Court Order

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

ACTION: Temporary rule; fishery closure.

SUMMARY: This final rule closes the Hawaii shallow-set pelagic longline fishery in compliance with an order of the U.S. District Court for the District of Hawaii.

DATES: Effective May 8, 2018, through December 31, 2018.

Compliance date: May 4, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808–725–5170.

SUPPLEMENTARY INFORMATION: In a January 30, 2012, NMFS completed a biological opinion (BiOp) on the effects of the Hawaii shallow-set longline fishery, pursuant to the Endangered Species Act (ESA). In the BiOp, NMFS concluded that the continued operation of the Hawaii shallow-set fishery, as managed under the regulatory framework of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP), was not likely to jeopardize the continued existence of any ESA-listed species, or result in destruction or adverse modification of designated critical habitat.

The BiOp established an annual incidental take statement authorizing the fishery to interact with up to 26 leatherback and 34 loggerhead sea turtles. Consistent with the BiOp, NMFS revised its regulations establishing annual limits on allowable incidental interactions between the fishery and leatherback and North Pacific loggerhead sea turtles (77 FR 60638, October 4, 2012, codified at 50 CFR 665.813). If the fishery reaches either of the interaction limits in a given year, the regulations require NMFS to close the fishery for the remainder of the calendar year.

In the U.S. District Court of Hawaii, several plaintiffs challenged, among other things, the NMFS final rule that revised the annual sea turtle interaction limits, and the Court ruled in favor of NMFS on all claims (see *Turtle Island Restoration Network, et al.* v. *U.S. Dept. of Commerce, et al., (U.S.D.C. 2013), Civil No. 12–00594*). Plaintiffs appealed the Court's decision and, on December 27, 2017, a U.S Ninth Circuit Court of Appeals panel issued a split decision affirming the NMFS BiOp regarding leatherback sea turtles, but holding that NMFS was arbitrary and capricious in its no-jeopardy determination for North Pacific loggerhead turtles (see *Turtle Island Restoration Network, et al.* v. *U.S. Dept. of Commerce, et al., 878 F.3d 725 (9th Cir. 2017)*).

All parties agreed to settle the case pursuant to the terms outlined in a May 4, 2018, Stipulated Settlement Agreement and Court Order. As part of the agreement, the U.S. District Court for the District of Hawaii ordered NMFS to take several actions, including closing the Hawaii shallow-set longline fishery through December 31, 2018. This rule implements the Court order to close the Hawaii shallow-set longline fishery through December 31, 2018.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this final rule is consistent with the Court order, the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, and other applicable laws.

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

NMFS has good cause under the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to waive prior notice and comment and 30 days delayed effectiveness for this temporary rule. The Court Order, in relevant parts, vacates that portion of the 2012 Biological Opinion that relates to North Pacific loggerheads, and requires NMFS to immediately close the Hawaii shallow-set longline fishery until the end of 2018. Under the ESA, NMFS may not continue to authorize the shallow-set longline fishery until the consultation requirements of ESA section 7(a)(2) have been satisfied. Accordingly, providing the public with prior notice and comment rule would be contrary to the public interest because NMFS is required to immediately close the fishery to prevent further impacts to North Pacific loggerhead sea turtles while it completes the new biological opinion. In addition, providing prior notice and comment and 30 days delayed effectiveness are unnecessary because NMFS has no discretion to take other action that is inconsistent with any term of the Court Order.

In addition, the regulatory flexibility analysis requirements of the Regulatory

Flexibility Act (5 U.S.C. 603–605) do not apply to this rule. Furthermore, because the changes identified in this rule are required by the Court Order and non-discretionary, the National Environmental Policy Act does not apply to this rule.

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

Dated: May 8, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–10096 Filed 5–8–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 92
Friday, May 11, 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 930

[Doc. No. AMS–SC–17–0071; SC18–930–1 PR]

Tart Cherries Grown in the States of Michigan, et al.; Free and Restricted Percentages for the 2017–18 Crop Year for Tart Cherries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Cherry Industry Administrative Board (Board) to establish free and restricted percentages for the 2017–18 crop year under the Marketing Order for tart cherries grown in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This action would establish the proportion of tart cherries from the 2017 crop which may be handled in commercial outlets. This action should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns.

DATES: Comments must be received by June 11, 2018.

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

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

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement and Order No. 930, both as amended (7 CFR part 930), regulating the handling of tart cherries produced in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin. Part 930 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board locally administers the Order and is comprised of producers and handlers of tart cherries operating within the production area, and a public member.

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

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order provisions now in effect, free and restricted percentages may be established for tart cherries handled during the crop year. This proposed rule would establish free and restricted percentages for tart cherries for the 2017–18 crop year, beginning July 1, 2017, through June 30, 2018.

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

This proposed rule invites comments on the establishment of free and restricted percentages for the 2017–18 crop year. This proposal would establish the proportion of tart cherries from the 2017 crop which may be handled in commercial outlets at 69 percent free and 31 percent restricted. The Secretary has determined that designating free and restricted percentages of tart cherries for the 2017 crop year would effectuate the declared policy of the Act to stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The final percentages were recommended by the Board at a meeting on September 14, 2017, and have been designated by the Secretary of Agriculture (Secretary).

Section 930.51(a) provides the Secretary authority to regulate volume by designating free and restricted percentages for any tart cherries acquired by handlers in a given crop year. Section 930.50 prescribes

procedures for computing an optimum supply based on sales history and for calculating these free and restricted percentages. Free percentage volume may be shipped to any market, while restricted percentage volume must be held by handlers in a primary or secondary reserve, or be diverted or used for exempt purposes as prescribed in §§ 930.159 and 930.162. Exempt purposes include, in part, the development of new products, sales into new markets, the development of export markets, and charitable contributions. Sections 930.55 through 930.57 prescribe procedures for inventory reserve. For cherries held in reserve, handlers would be responsible for storage and would retain title of the tart cherries.

Under § 930.52, only districts with an annual average production over the prior three years of at least six million pounds are subject to regulation, and any district producing a crop that is less than 50 percent of its annual average of the previous five years is exempt. The regulated districts for the 2017–2018 crop year would be: District 1—Northern Michigan; District 2—Central Michigan; District 3—Southern Michigan; District 4—New York; District 7—Utah; District 8—Washington; and District 9—Wisconsin. Districts 5 and 6 (Oregon and Pennsylvania, respectively) would not be regulated for the 2017–18 season.

Demand for tart cherries and tart cherry products tends to be relatively stable from year to year. Conversely, annual tart cherry production can vary greatly. In addition, tart cherries are processed and can be stored and carried over from crop year to crop year, further impacting supply. As a result, supply and demand for tart cherries are rarely in balance.

Because demand for tart cherries is inelastic, total sales volume is not very responsive to changes in price. However, prices are very sensitive to changes in supply. As such, an oversupply of cherries would have a sharp negative effect on prices, driving down grower returns. Aware of this economic relationship, the Board focuses on using the volume control provisions in the Order to balance supply and demand to stabilize industry returns.

Pursuant to § 930.50, the Board meets on or about July 1 to review sales data, inventory data, current crop forecasts, and market conditions for the upcoming season and, if necessary, to recommend preliminary free and restricted percentages if anticipated supply would exceed demand. After harvest is complete, but no later than September 15, the Board meets again to update its calculations using actual production data, consider any necessary adjustments to the preliminary percentages, and determine if final free and restricted percentages should be recommended to the Secretary.

The Board uses sales history, inventory, and production data to determine whether there is a surplus and, if so, how much volume should be restricted to maintain optimum supply. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year. Optimum supply is defined as the average free sales of the prior three years plus desirable carry-out inventory. Desirable carry-out is the amount of fruit needed by the industry to be carried into the succeeding crop year to meet market demand until the new crop is available. Desirable carry-out is set by the Board after considering market circumstances and needs. Section 930.151(b) specifies that desirable carry-out can range from zero to a maximum of 100 million pounds.

In addition, USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (*http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders*) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This requirement is codified in § 930.50(g), which specifies that in years when restricted percentages are established, the Board shall make available tonnage equivalent to an additional 10 percent of the average sales of the prior three years for market expansion (market growth factor).

After the Board determines optimum supply, desirable carry-out, and market growth factor, it must examine the current year's available volume to determine whether there is an oversupply situation. Available volume includes carry-in inventory (any inventory available at the beginning of the season) along with that season's production. If production is greater than the optimum supply minus carry-in, the difference is considered surplus. This surplus tonnage is divided by the sum of production in the regulated districts to reach a restricted percentage. This percentage must be held in reserve or used for approved diversion activities, such as exports.

The Board met on June 22, 2017, and computed an optimum supply of 282.4 million pounds for the 2017–18 crop year using the average of free sales for the three previous seasons. Regarding the carry-out value, the Board discussed and considered a range of alternatives. One member suggested a carry-out value of 20 million pounds, approximately one tenth of three years' average annual sales. Last year's carry-out was set at 57 million pounds to cover the three-month gap between calculation of carry-out at the end of one season and the availability of fruit for the next season. One member, advocating for 60 million pounds, noted that a carry-out to supply only three months' worth of cherries makes it difficult for processors to serve their customers. Some Board members stated that in the past two seasons, the recommended carry-out was equivalent to approximately three months' sales but the industry ended up with a higher carry-out than anticipated, which puts downward pressure on prices. After the consideration of the alternatives, the Board determined a carry-out of 45 million pounds would be slightly less than the three-month estimate of 60 million pounds and would supply the industry's needs at the beginning of the next season.

The Board subtracted the estimated carry-in of 110.5 million pounds from the optimum supply to calculate the production quantity needed from the 2017–18 crop to meet optimum supply. This number, 171.9 million pounds, was subtracted from the Board's estimated 2017–18 total production (from regulated and unregulated districts) of 259 million pounds to calculate a surplus of 87.1 million pounds of tart cherries. The Board also complied with the market growth factor requirement by removing 23.7 million pounds (average sales for prior three years of 237.4 million times 10 percent) from the surplus. The adjusted surplus of 63.1 million pounds was then divided by the expected production in the regulated districts (252 million pounds) minus anticipated orchard diversion (12 million pounds) to reach a preliminary restricted percentage of 26 percent for the 2017–18 crop year.

The Board then discussed whether this calculation would provide sufficient supply to grow sales and fulfil orders that have not yet shipped, including filling remaining orders from USDA purchases. A motion to make an economic adjustment of five million pounds to adjust for USDA sales failed to receive Board support. After the discussion, the Board's preliminary restricted percentage remained at 26 percent (63 million pounds divided by 240 million pounds).

The Board met again on September 14, 2017, to consider final volume regulation percentages for the 2017–18 season. The final percentages are based

on the Board's reported production figures and the supply and demand information available in September. In September and going forward, the Board revised the formula for calculating free sales. When the three-year sales average was recalculated in September, the revision lowered the sales average to 205 million pounds, which resulted in a revised optimum supply of 250 million pounds.

The total production for the 2017–18 season was 270.4 million pounds, 11.4 million pounds above the Board's June estimate. In addition, growers diverted 11.7 million pounds in the orchard, leaving 258.7 million pounds available to market, 251.1 million pounds of which are in the restricted districts. Using the actual production numbers, and accounting for the recommended desirable carry-out and economic adjustment, as well as the market growth factor, the restricted percentage was recalculated.

The Board subtracted the carry-in figure used in June of 110.5 million pounds from the optimum supply of 250 million pounds to determine 139.5 million pounds of 2017–18 production would be necessary to reach optimum supply. The Board subtracted the 139.5 million pounds from the actual production of 270.4 million pounds, resulting in a surplus of 130.9 million pounds of tart cherries. The Board also recommended an economic adjustment to adjust the supply in anticipation of increased sales from market expansion, new markets, and growth from the short crop this season in Europe. The surplus was then reduced by subtracting the economic adjustment of 33 million pounds and the market growth factor of 20.5 million pounds, resulting in an adjusted surplus of 77.4 million pounds. The Board then divided this final surplus by the available production of 251.1 million pounds in the regulated districts (262.8 million pounds minus 11.7 million pounds of in-orchard diversion) to calculate a restricted percentage of 31 percent with a corresponding free percentage of 69 percent for the 2017–18 crop year, as outlined in the following table:

	Millions of pounds
Final Calculations:	
(1) Average sales of the prior three years	205.0
(2) Plus desirable carry-out	45.0
(3) Optimum supply calculated by the Board	250.0
(4) Carry-in as of July 1, 2017	110.5
(5) Adjusted optimum supply (item 3 minus item 4)	139.5
(6) Board reported production	270.4
(7) Surplus (item 6 minus item 5)	130.9
(8) Total economic adjustments	33.0
(9) Market growth factor	20.5
(10) Adjusted Surplus (item 7 minus items 8 and 9)	77.4
(11) Supply in regulated districts	262.8
(12) In-orchard diversion	11.7
(13) Regulated production minus in-orchard diversion	251.1
	Percent
Final Percentages:	
Restricted (item 10 divided by item 13 × 100)	31
Free (100 minus restricted percentage)	69

The primary purpose of setting restricted percentages is an attempt to bring supply and demand into balance. If the primary market is oversupplied with cherries, grower prices decline substantially. Restricted percentages have benefited grower returns and helped stabilize the market as compared to those seasons prior to the implementation of the Order. The Board believes the available information indicates that a restricted percentage should be established for the 2017–18 crop year to avoid oversupplying the market with tart cherries. Consequently, based on its discussion of this issue and the result of the above calculations, the Board recommended final percentages of 69 percent free and 31 percent restricted by a vote of 18 in favor and 1 opposed.

The initial restriction percentage of 26 percent was lower than the final restriction of 31 percent. One factor affecting this change was the final production numbers that came in above the Board's June estimate. Additionally, in September the Board revised the formula for calculating the three-year sales average, which will be used going forward. The revision in the calculation of the free sales average lowered the sales calculation from the preliminary 237.4 million pounds to the final average of 205 million pounds. The desired carry-out remained the same at 45 million pounds, resulting in a revised optimum supply of 250 million pounds, down from the June calculation of 282.4 million pounds.

At the Board meeting on September 14, an economic adjustment of 33 million pounds was recommended in the Optimum Supply Formula (OSF). Several members indicated the factors in the marketplace prompted the need to make this economic adjustment to maintain market growth. These factors include serving new and expanded markets, a year over year increase in sales, and the expectation of increased sales as a result of a smaller than normal tart cherry crop in Europe this season.

One member opposed to the proposed restriction expressed opposition to the definition of sales used in the OSF. In particular, the member expressed concern that the definition of sales is misrepresented by not including imported cherries in the sales average, thus not capturing overall supply and demand. Another member agreed with this concern but did not oppose the proposed OSF calculation.

A motion was made to re-open the discussion about the OSF and consider an adjustment for imports. However, the motion failed to gain enough support for further discussion. One member indicated that the issue of imports continues to be a top priority for discussion and will be revisited moving forward into the winter season.

After reviewing the available data and considering the concerns expressed, the

Board determined that a 31 percent restriction would meet sales needs and establish some reserves without oversupplying the market. Thus, the Board recommended establishing final percentages of 69 percent free and 31 percent restricted. The Board could meet and recommend the release of additional volume during the crop year if conditions so warranted. The Secretary finds, from the recommendation and supporting information supplied by the Board, that designating final percentages of 69 percent free and 31 percent restricted will tend to effectuate the declared policy of the Act, and so designates these percentages.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 600 producers of tart cherries in the regulated area and approximately 40 handlers of tart cherries who are subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms have been defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS) and Board data, the average annual grower price for tart cherries utilized for processing during the 2016–17 season was approximately $0.273 per pound. With total utilization at approximately 323.1 million pounds for the 2016–17 season, the total 2016–17 value of the crop utilized for processing is estimated at $88.2 million. Dividing the crop value by the estimated number of producers (600) yields an estimated average receipt per producer of $147,000. This is well below the SBA threshold for small producers. A free on board (f.o.b.) price of $0.83 per pound for frozen tart cherries, which make up the majority of processed tart cherries, is a good estimate to represent the range of prices reported by the Food Institute during the 2017–2018 season. Multiplying the f.o.b price by total utilization of 323.1 million pounds results in an estimated handler-level tart cherry value of $268 million. Dividing this figure by the number of handlers (40) yields an estimated average annual handler receipts of $6.7 million, which is below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

The tart cherry industry in the United States is characterized by wide annual fluctuations in production. According to NASS, the pounds of tart cherry production utilized for processing for the years 2014 through 2016 were 304 million, 253 million, and 329 million, respectively. Because of these fluctuations, supply and demand for tart cherries are rarely equal.

Demand for tart cherries is inelastic, meaning changes in price have a minimal effect on total sales volume. However, prices are very sensitive to changes in supply, and grower prices vary widely in response to the large swings in annual supply. Grower prices per pound for processed utilization have ranged from a low of $0.073 in 1987 to a high of $0.588 per pound in 2012.

Because of this relationship between supply and price, oversupplying the market with tart cherries would have a sharp negative effect on prices, driving down grower returns. Aware of this economic relationship, the Board focuses on using the volume control authority in the Order to align supply with demand and stabilize industry returns. This authority allows the industry to set free and restricted percentages as a way to bring supply and demand into balance. Free percentage cherries can be marketed by handlers to any outlet, while restricted percentage volume must be held by handlers in reserve, diverted, or used for exempted purposes.

This proposal would control the supply of tart cherries by establishing percentages of 69 percent free and 31 percent restricted for the 2017–18 crop year. These percentages should stabilize marketing conditions by adjusting supply to meet market demand and help improve grower returns. The proposal would regulate tart cherries handled in Michigan, New York, Utah, Washington, and Wisconsin. The authority for this proposal is provided in §§ 930.50, 930.51(a), and 930.52. The Board recommended this action at a meeting on September 14, 2017.

This proposal would result in some fruit being diverted from the primary domestic markets. However, as mentioned earlier, the USDA's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (*http://www.ams.usda.gov/publications/content/1982-guidelines-fruit-vegetable-marketing-orders*) specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity that would be available under this proposal is greater than 110 percent of the average quantity shipped in the prior three years.

In addition, there are secondary uses available for restricted fruit, including the development of new products, sales into new markets, the development of export markets, and being placed in reserve. While these alternatives may provide different levels of return than the sales to primary markets, they play an important role for the industry. The areas of new products, new markets, and the development of export markets utilize restricted fruit to develop and expand the markets for tart cherries. In 2016–17, these activities accounted for over 37 million pounds in sales, 15.6 million of which were exports.

Placing tart cherries into reserves is also a key part of balancing supply and demand. Although handlers bear the handling and storage costs for fruit in reserve, reserves stored in large crop years are used to supplement supplies in short crop years. The reserves allow the industry to mitigate the impact of oversupply in large crop years, while allowing the industry to maintain supply to markets in years when production falls below demand. Further, storage and handling costs are more than offset by the increase in price when moving from a large crop to a short crop year.

In addition, the Board recommended a carry-out of 45 million pounds and made a demand adjustment of 33 million pounds in order to make the regulation less restrictive. The domestic market would have an ample supply of tart cherries, even with the recommended restriction. There are 110.5 million pounds of carry-in, 7.7 million pounds of production in the unregulated districts, and there would be 173.7 million pounds of free tonnage from the regulated districts, leaving 291.8 million pounds of fruit available to the domestic market. Consequently, it is not anticipated that this proposal would unduly burden growers or handlers.

While this proposal could result in some additional costs to the industry, these costs are more than outweighed by the benefits. The purpose of setting restricted percentages is to attempt to bring supply and demand into balance. If the primary market (domestic) is oversupplied with cherries, grower prices decline substantially. Without volume control, the primary market would likely be oversupplied, resulting in lower grower prices.

The three districts in Michigan, along with the districts in New York, Utah, Washington, and Wisconsin, are the restricted areas for this crop year, and have a combined total production of 262.8 million pounds. A 31 percent restriction, after removing the 11.7 million pounds for in-orchard diversion, means 173.3 million pounds would be available to be shipped to primary markets from these five states. The 173.3 million pounds from the restricted districts, 7.7 million pounds from the unrestricted districts (Oregon and Pennsylvania), and the 110.5 million pound carry-in inventory would make a total of 291.5 million pounds available as free tonnage for the primary markets. This is less than the 306 million pounds of free tonnage made available last year. However, this would be enough to cover 260 million pounds of Board reported sales in 2016–2017, while providing substantial carry-out. Further, the Board could meet and recommend the release of additional volume during the crop year if conditions so warranted.

Prior to the implementation of the Order, grower prices often did not cover the cost of production. The most recent costs of production determined by representatives of Michigan State University are an estimated $0.33 per pound. To assess the impact that volume control has on the prices growers receive for their product, an econometric model has been developed. Based on the model, the use of volume control would have a positive impact on grower returns for this crop year. With volume control, grower prices are estimated to be approximately $0.05 per pound higher than without restrictions. In addition, absent volume control, the industry could start to build large amounts of unwanted inventories. These inventories would have a depressing effect on grower prices.

Retail demand is assumed to be highly inelastic, which indicates that changes in price do not result in significant changes in the quantity demanded. Consumer prices largely do not reflect fluctuations in cherry supplies. Therefore, this proposal should have little or no effect on consumer prices and should not result in a reduction in retail sales.

The free and restricted percentages established by this proposal would provide the market with optimum supply and apply uniformly to all regulated handlers in the industry, regardless of size. As the restriction represents a percentage of a handler's volume, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities.

The stabilizing effects of this proposal would benefit all handlers by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all growers and handlers by allowing them to better anticipate the revenues their tart cherries would generate. Growers and handlers, regardless of size, would benefit from the stabilizing effects of this restriction. In addition, the increased carry-out should provide processors enough supply to meet market needs going into the next season.

The Board considered alternatives in its preliminary restriction discussions that affected this recommended action. The Board had extensive discussions on carry-out inventory alternatives. The alternatives included four motions that failed to pass, ranging from 20 million pounds to 55 million pounds. The Board determined that if the carry-out number was too large, it could have a negative impact on grower returns. Some members were concerned that processors would not have enough fruit to maintain sales before the new crop was available. After consideration of the alternatives, the Board recommended a carry-out of 45 million pounds.

Regarding demand, the Board began in June with a sales average of 237.4 million pounds. However, in September the Board revised the formula for calculating the sales average going forward. This modification will provide a more accurate calculation of free sales each year. This revision lowered the three-year sales average for the final calculation made at the September meeting to 205 million pounds.

Additionally, at the September meeting, Board members discussed an expectation of increased sales over the coming year. This anticipated increase is from serving new and expanded markets and to adjust for a smaller than normal tart cherry crop in Europe this season. In order to avoid undersupplying the market, the Board determined that the calculation of the optimum supply should include an additional adjustment to account for the growth in new markets, market expansion, and the crop shortage in Europe. The Board could accept the calculated surplus without any change. After discussion, an adjustment of an additional 33 million pounds was made to the 2017–18 available supply of tart cherries as it was determined that this amount would best meet the industry's sales needs. A motion to re-open the discussion and consider a further adjustment for imports was made, but the motion failed to receive support. Thus, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. No changes are necessary in those requirements as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

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

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

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

In addition, the Board's meetings were widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the June 22, 2017, and September 14, 2017, meetings were public meetings, and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this proposal on small businesses.

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

at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise § 930.256 and its heading title to read as follows:

§ 930.256 Free and restricted percentages for the 2017–18 crop year.

The percentages for tart cherries handled by handlers during the crop year beginning on July 1, 2017, which shall be free and restricted, respectively, are designated as follows: Free percentage, 69 percent and restricted percentage, 31 percent.

Dated: May 8, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–10083 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0392; Product Identifier 2018–NM–044–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This proposed AD was prompted by a report indicating that cracks were found on the fuselage frame webs at stations forward and aft of the overwing emergency exits between stringers S–7 and S–8. This proposed AD would require repetitive high frequency eddy current (HFEC) inspections for cracking of the fuselage frame webs at certain stations between stringers S–7 and S–8 and applicable on-condition actions. We are proposing this AD to address the unsafe condition on these products.

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

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0392.

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–2018–0392; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5224; fax: 562–627–5210; email: *david.truong@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0392; Product Identifier 2018–NM–044–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We have received a report indicating that cracks were found on the fuselage frame webs at stations forward and aft of the overwing emergency exits between stringers S–7 and S–8. Cracks were found at multiple stations and ranged in length from 2.4 inches to 2.55 inches. The cracks started at the end fastener common to the uppermost shear tie above the emergency exit doors, where there is high load transfer due to high shear flows around the emergency exit doors. The cracks are the result of fatigue loading caused by cyclic pressurization of the fuselage. This condition, if not addressed, could result in fuselage frame web cracking, which may lead to subsequent failure of the surrounding structure, and ultimately result in rapid decompression and loss of structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018. The service information describes procedures for repetitive HFEC inspections for cracking of the fuselage frame webs at certain stations between stringers S–7 and S–8 and applicable on-condition actions. The on-condition action is repair. This service information is reasonably available because the interested parties

have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified in the Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0392.

Explanation of Requirements Bulletin

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

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Costs of Compliance

We estimate that this proposed AD affects 63 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive inspections ..	Up to 14 work-hours × $85 per hour = $1,190 per inspection cycle.	$0	Up to $1,190 per inspection cycle.	Up to $74,790 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2018–0392; Product Identifier 2018–NM–044–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report indicating that cracks were found on the

fuselage frame webs at stations forward and aft of the overwing emergency exits between stringers S–7 and S–8. We are issuing this AD to address fuselage frame web cracking, which may lead to subsequent failure of the surrounding structure, and ultimately result in rapid decompression and loss of structural integrity of the airplane.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes

For airplanes identified as Group 1 in Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018: Within 120 days after the effective date of this AD, inspect the fuselage frame webs at station (STA) 616 and STA 639 between stringers S–7 and S–8 and do all applicable repairs, using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(h) Required Actions for Groups 2 Through 4 Airplanes

Except for airplanes identified in paragraph (g) of this AD and except as required by paragraph (i) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018.

Note 1 to paragraph (h) of this AD: Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737–53A1371, dated January 19, 2018, which is referred to in Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018.

(i) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Requirements Service Bulletin 737–53A1371 RB, dated January 19, 2018, uses the phrase ''the original issue date of Requirements Bulletin 737–53A1371 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 737–53A1371 RB, dated January 19, 2018, specifies contacting Boeing, this AD requires repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(k) Related Information

(1) For more information about this AD, contact David Truong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5224; fax: 562–627–5210; email: *david.truong@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09977 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0393; Product Identifier 2018–NM–010–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This proposed AD was prompted by reports of loose, worn, or missing attachment bolts for the main landing gear (MLG) center door assemblies. This proposed AD would require repetitive detailed inspections of the forward and aft MLG center door assembly attachments for loose, missing, damaged, or bottomed out attachment bolts; any wear to the retention clip assemblies as applicable; and applicable on-condition actions. This proposed AD would also provide an optional terminating action for the repetitive inspections. Since this is a rotable parts issue, the applicability of this AD has been expanded beyond the airplanes listed in the related service bulletin to include all airplanes on which the MLG center door assemblies may be installed. We are proposing this AD to address the unsafe condition on these products.

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

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0393.

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–2018–0393; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and

other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Alan Pohl, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3527; email: *alan.pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0393; Product Identifier 2018–NM–010–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We have received reports of loose, worn, or missing attachment bolts of the MLG center door assemblies. One operator reported the departure and loss of the center and inboard door assemblies from the left MLG during flight on a Model 737–800 series airplane. The airplane had accumulated 28,279 flight cycles when the incident occurred. There have also been several reports of the two inboard bolts that attach the MLG center door assembly to the shock strut cylinder being loose or missing. One operator reported loose, worn, and missing attachment bolts on several airplanes that had accumulated from 15,921 to 31,673 flight cycles. This condition, if not corrected, could result in departure of the center and inboard door assemblies, subsequent damage to the main flap and horizontal stabilizer, and loss of control of the airplane.

To support operations, many operators have put processes in place that, given certain conditions, allow them to rotate or transfer parts or equipment within their fleets to different aircraft than what is defined in the manufacturer's type design. We have determined that the parts or equipment subject to the unsafe condition addressed by this proposed AD may have been rotated or transferred in this manner, due to similarity with parts or equipment not subject to the unsafe condition addressed by this proposed AD. Therefore, this proposed AD includes all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 737–52–1170, Revision 1, dated December 19, 2017 (''BSASB 737–52–1170, R1''). The service information describes procedures for repetitive detailed inspections of the forward and aft MLG center door assembly attachments for loose, missing, damaged, or bottomed out attachment bolts; and any wear to the retention clip assemblies as applicable; and applicable on-condition actions. The service information also describes procedures for modification of the MLG center door assembly retention clip assemblies as an optional terminating action for the repetitive inspections. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of BSASB 737–52–1170, R1, described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information,'' and except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0393.

Differences Between This Proposed AD and the Service Information

The effectivity of BSASB 737–52–1170, R1, is limited to Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes line numbers 1 through 6724 inclusive and 6736. The affected MLG center door assemblies are rotable parts, and we have determined that these parts could later be installed on airplanes that were initially delivered with acceptable MLG center door assemblies, thereby subjecting those airplanes to the unsafe condition. Therefore, the applicability of this proposed AD includes all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes to address the rotability of these parts. This difference has been coordinated with Boeing.

Where BSASB 737–52–1170, R1, specifies Group 3 airplanes as having line numbers 4275 through 6724 inclusive, and 6736, this proposed AD specifies Group 3 airplanes as line number 4275 through any airplane with an original Certificate of Airworthiness or an original Export Certificate of Airworthiness dated ''on or before the effective date of this AD,'' as specified in paragraph (c)(3) of this proposed AD.

For Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes with an original Certificate of Airworthiness or an original Export Certificate of Airworthiness dated after the effective date of the final rule, operators would not be required to complete the actions described in paragraph (g) of this proposed AD, but would be required to comply with the parts installation prohibition in paragraph (j) of this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 1,814 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	2 work-hours × $85 per hour = $170 per inspection cycle.	$0	$170 per inspection cycle.	$308,380 per inspection cycle.

ESTIMATED COSTS FOR OPTIONAL TERMINATING ACTION

Action	Labor cost	Parts cost	Cost per product
Modification	Up to 6 work-hours × $85 per hour = Up to $510	$2,900	Up to $3,410.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2018–0393; Product Identifier 2018–NM–010–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as specified in paragraphs (c)(1) through (c)(4) of this AD.

(1) Airplanes in Group 1, and in Group 2, Configuration 1, as identified in Boeing Special Attention Service Bulletin 737–52–1170, Revision 1, dated December 19, 2017 (''BSASB 737–52–1170, R1'').

(2) Airplanes in Group 2, Configuration 2, as identified in BSASB 737–52–1170, R1.

(3) Airplanes in Group 3, as identified in BSASB 737–52–1170, R1, except where this service bulletin specifies the groups as line numbers 4275 through 6724 inclusive, and 6736, this AD specifies those groups as line number 4275 through any line number of an airplane with an original Certificate of Airworthiness or an original Export Certificate of Airworthiness dated on or before the effective date of this AD.

(4) All Model 737–600, –700, –700C, –800, –900 and –900ER series airplanes with an original Certificate of Airworthiness or an original Export Certificate of Airworthiness dated after the effective date of this AD.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports of loose, worn, or missing attachment bolts for the main landing gear (MLG) center door assemblies. We are issuing this AD to address loose, missing, damaged, or bottomed out attachment bolts, and any wear to the retention clip assemblies, which could result in departure of the center and inboard door assemblies, subsequent damage to the main flap and horizontal stabilizer, and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

For airplanes identified in paragraphs (c)(1), (c)(2), or (c)(3) of this AD: Except as required by paragraph (h) of this AD, at the applicable time specified in Tables 1 through 6, as applicable, of paragraph 1.E., Compliance, of BSASB 737–52–1170, R1, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of BSASB 737–52–1170, R1.

(h) Exceptions to Service Information Specifications

For purposes of determining compliance with the requirements of this AD: Where BSASB 737–52–1170, Revision 1, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Optional Terminating Action for Repetitive Inspections

Accomplishment of the modification of the MLG center door retention clip assemblies specified in Part 5 of the Accomplishment Instructions of BSASB 737–52–1170, R1, terminates the repetitive inspections required by paragraph (g) of this AD for that MLG center door retention clip only. The requirements of paragraph (j) of this AD continue to apply.

(j) Parts Installation Limitation

As of the effective date of this AD, no person may install an MLG center door assembly on any airplane unless all actions for Group 3 airplanes identified as RC in, and in accordance with, the Accomplishment Instructions of BSASB 737–52–1170, R1, have been accomplished on that MLG center door assembly within the compliance times specified in Tables 4, 5, and 6, as applicable, of paragraph 1.E., Compliance, of BSASB 737–52–1170, R1.

(k) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–52–1170, dated July 29, 2014.

(l) 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 (m)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(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 (l)(4)(i) and (l)(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.

(m) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3527; email: *alan.pohl@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09978 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0385; Product Identifier 2018–CE–019–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited 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 Pacific Aerospace Limited Model 750XL airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as an incorrect size bolt may have been used to assemble the elevator bellcrank pivot joint. 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 June 25, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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 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 review copies of the 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–2018–0385; 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: 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:

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–2018–0385; Product Identifier 2018–CE–019–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 Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/750XL/28, dated March 22, 2018 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pacific Aerospace Limited Model 750XL airplanes and was based on mandatory continuing airworthiness information originated by an aviation authority of another country. The MCAI states:

> It is possible that the elevator bellcrank pivot joint could be assembled with a bolt P/N AN4–20 that is a little too short, leaving threads inside the working area of the section of the joint.

The MCAI requires inspecting the elevator bellcrank pivot joint to determine the length of the bolt installed to determine if it is the proper size and taking all necessary corrective actions. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0385.

Related Service Information Under 1 CFR Part 51

Pacific Aerospace Limited has issued Service Bulletin PACSB/XL/097, Issue 1, dated March 12, 2018. The service information describes procedures for inspecting the elevator bellcrank pivot joint to determine if the correct bolt size is installed. If an incorrect size bolt is found, the service bulletin describes procedures for inspecting the cross tube to confirm structural integrity, taking necessary corrective actions, and replacing the incorrect size bolt with a correct sized bolt. 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 This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with 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 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 proposed AD. 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 $3,740, or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 8 work-hours and require parts costing $125, for a cost of $805 per product. We have no way of determining the number of products that may need these actions.

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

Authority for This Rulemaking

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

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

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

Pacific Aerospace Limited: Docket No. FAA–2018–0385; Product Identifier 2018–CE–019–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pacific Aerospace Limited Model 750XL airplanes, all serial numbers through 215, 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 correct an unsafe condition on an aviation product. We are issuing this proposed AD to prevent damage from the threads of the bolt on the internal bore of the cross tube hinge plate, which could result in reduced control.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) and (2) of this AD:

(1) Within the next 150 hours time-in-service after the effective date of this AD or within the next 12 months after the effective date of this AD, whichever occurs later, inspect the elevator bellcrank pivot joint to determine the length of the bolt installed. Do the inspection using the Inspection Instructions in Pacific Aerospace Service Bulletin PACSB/XL/097, Issue 1, dated March 12, 2018.

(2) If an incorrect size bolt is found during the inspection required in paragraph (f)(1) of this AD, before further flight, take all necessary corrective actions using the Accomplishment Instructions in Pacific Aerospace Service Bulletin PACSB/XL/097, Issue 1, dated March 12, 2018.

(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, Small Airplane Standards Branch, FAA; or the Civil Aviation Authority of New Zealand (CAA).

(h) Related Information

Refer to MCAI Civil Aviation Authority (CAA) AD DCA/750XL/28, dated March 22, 2018, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0385. For service information related to 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 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 May 4, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–10016 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0394; Product Identifier 2018–NM–036–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Dassault Aviation Model MYSTERE–FALCON 50 airplanes. This proposed AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new and more restrictive maintenance requirements and airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

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

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

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

For service information identified in this NPRM, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2018–0394; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3226.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0394; Product Identifier 2018–NM–036–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2018–0026, dated January 30, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Dassault Aviation Model MYSTERE–FALCON 50 airplanes. The MCAI states:

The airworthiness limitations and certification maintenance instructions for the

Dassault Mystère Falcon 50 aeroplanes, which are approved by EASA, are currently defined and published in the Dassault Mystère Falcon 50 Aircraft Maintenance Manual (AMM) chapter 5–40. These instructions have been identified as mandatory for continued airworthiness.

Failure to accomplish these instructions could result in an unsafe condition [i.e, reduced structural integrity of the airplane].

Consequently, EASA issued [EASA] AD 2016–0067 [which corresponds to FAA AD 2017–09–03 Amendment 39–18865 (82 FR 21467, May 9, 2017) (''AD 2017–09–03'')] to require accomplishment of the maintenance tasks, and implementation of the airworthiness limitations, as specified in Dassault Mystère Falcon 50 AMM chapter 5–40 Revision 23.

Since that [EASA] AD was issued, Dassault issued Revision 24 of the Dassault Mystère Falcon 50 AMM chapter 5–40, which introduces new and more restrictive maintenance requirements and/or airworthiness limitations.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2016–0067, which is superseded, and requires accomplishment of the actions specified in Revision 24 of the Dassault Mystère Falcon 50 AMM chapter 5–40 * * *.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0394.

Relationship Between Proposed AD and Certain Other ADs

This NPRM would not supersede AD 2017–09–03. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This NPRM would require revising the maintenance or inspection program, as applicable, to incorporate the new maintenance requirements and airworthiness limitations. Accomplishment of the proposed actions would then terminate all requirements of AD 2017–09–03. Accomplishment of the proposed actions would also terminate all requirements of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (''AD 2010–26–05'') and AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012) (''AD 2012–02–18''), for the Dassault Aviation Model MYSTERE–FALCON 50 airplanes specified in those ADs.

Related Service Information Under 1 CFR Part 51

Dassault Aviation has issued Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 24, dated July 2017. This service information describes instructions applicable to airworthiness and safe life limitations. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD requires revisions to certain operator maintenance documents. Compliance with these revisions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitations section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Dassault Aviation maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 250 airplanes of U.S. registry.

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

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket No. FAA–2018–0394; Product Identifier 2018–NM–036–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

This AD affects AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010) (''AD 2010–26–05''); AD 2012–02–18, Amendment 39–16941 (77 FR 12175, February 29, 2012) (''AD 2012–02–18''); and AD 2017–09–03 Amendment 39–18865 (82 FR 21467, May 9, 2017) (''AD 2017–09–03'').

(c) Applicability

This AD applies to Dassault Aviation Model MYSTERE–FALCON 50 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time limits/maintenance checks.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance requirements and airworthiness limitations are necessary. We are issuing this AD to prevent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 24, dated July 2017. The initial compliance times for doing the tasks are at the time specified in Chapter 5–40, Airworthiness Limitations, of the Dassault Falcon 50/50EX Maintenance Manual, Revision 24, dated July 2017, or within 90 days after the effective date of this AD, whichever occurs later.

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), or intervals, may be used unless the actions, or intervals, are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Actions for Other ADs

(1) Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2017–09–03.

(2) Accomplishing the actions required by paragraph (g) of this AD terminates all requirements of AD 2010–26–05 and AD 2012–02–18 for the Dassault Aviation Model MYSTERE–FALCON 50 airplanes specified in those ADs.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Airworthiness Directive 2018–0026, dated January 30, 2018, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0394.

(2) For more information about this AD, contact Tom Rodriguez, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3226.

(3) For service information identified in this AD, contact Dassault Falcon Jet Corporation, Teterboro Airport, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09979 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0390; Product Identifier 2017–NM–130–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A300 series airplanes. This proposed AD was prompted by a revision of an airworthiness limitation items (ALI) document. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate the specified maintenance requirements and airworthiness limitations. We are proposing this AD to address the unsafe condition on these products.

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

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

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2018–0390; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3225.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0390; Product Identifier 2017–NM–130–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2017–0145, dated August 31, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 series airplanes. The MCAI states:

> Some airworthiness limitations previously defined in A300 ALS Part 1 have been removed from that document and should normally be included in an ALS Part 4. Airbus does not plan to issue an ALS Part 4 for A300 aeroplanes.
>
> Nevertheless, failure to comply with these airworthiness limitations could result in an unsafe condition.
>
> For the reason described above, it has been decided to require the application of these airworthiness limitations through a separate AD.
>
> Previously, EASA issued AD 2013–0210 [which corresponds to FAA AD 2014–16–13, Amendment 39–17937 (79 FR 51083, August 27, 2014) (''AD 2014–16–13'')] to require implementation of airworthiness limitations applicable to main landing gear (MLG) barrel assembly, retraction actuator assembly, linkage assembly and flanged duct, which were previously defined in Revision 00 of A300 ALS Part 1 but removed from Revision 01 of A300 ALS Part 1, adding those limits as an Appendix to the AD.
>
> Since EASA AD 2013–0210 was issued, improvement of safe life component selection resulted, among others, in removal of 15 nose landing gear (NLG) parts from Revision 02 of A300 ALS Part 1.
>
> Consequently, this [EASA] AD retains the requirements of EASA AD 2013–0210, which is superseded, and requires, in addition to the implementation of airworthiness limitations already contained in EASA AD 2013–0210, the implementation of airworthiness limitations applicable to NLG barrel assembly and shock absorber assembly, previously contained in Revision 01 of A300 ALS Part 1, as specified in Appendix 1 of this AD.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0390.

Relationship of Proposed AD to AD 2014–16–13

This NPRM would not supersede AD 2014–16–13. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This NPRM would require revising the maintenance or inspection program to incorporate the new maintenance requirements and airworthiness limitations. Accomplishment of the proposed actions would then terminate all requirements of AD 2014–16–13.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this proposed AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Differences Between This Proposed AD and the MCAI or Service Information

The MCAI specifies that if there are findings from the airworthiness limitations section (ALS) inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Costs of Compliance

We estimate that this proposed AD affects 5 airplanes of U.S. registry.

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

We have determined that revising the maintenance or inspection program takes an average of 90 work-hours per operator, although we recognize that this number may vary from operator to operator. In the past, we have estimated that this action takes 1 work-hour per airplane. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), we have determined that a per-operator estimate is more accurate than a per-airplane estimate. Therefore, we estimate the total cost per operator to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2018–0390; Product Identifier 2017–NM–130–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

This AD affects AD 2014–16–13, Amendment 39–17937 (79 FR 51083, August 27, 2014) (''AD 2014–16–13'').

(c) Applicability

This AD applies to Airbus Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a revision of an airworthiness limitation items (ALI) document. We are issuing this AD to prevent reduced structural integrity of the airplane and possible loss of controllability of the airplane.

(f) Compliance

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

(g) Revision of Maintenance or Inspection Program

Within 90 days after the effective date of this AD, revise the maintenance or inspection program, as applicable, to incorporate the safe life limits included in figure 1 to paragraph (g) of this AD. The initial compliance time for the replacements is prior to the applicable life limits specified in figure 1 to paragraph (g) of this AD, or within 90 days after the effective date of this AD, whichever occurs later. The term ''FH'' in figure 1 to paragraph (g) of this AD means total flight hours. The term ''LDG'' in figure 1 to paragraph (g) of this AD means total airplane landings.

BILLING CODE 4910–13–P

Figure 1 to paragraph (g) of this AD – *New Life Limits for the Main Landing Gear (MLG) Barrel Assembly, Retraction Actuator Assembly, Linkage Assembly; Pneumatic Flange Duct; Nose Landing Gear (NLG) Barrel Assembly and Shock Absorber Assembly*

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
ATA 32-10-00 MAIN LANDING GEAR										
BARREL ASSEMBLY										
Stirrup	C66277-10	N/A	66600	N/A			X	X	X	X
	C66277-12	N/A	76600	N/A			X	X	X	X
	C66277-14	N/A	76600	N/A			X	X	X	X
	D58303-1	N/A	76600	N/A			X	X	X	X
Stirrup pin	C66457	N/A	76600	N/A			X	X	X	X
	D48939	N/A	76600	N/A			X	X	X	X
	D48939-1	N/A	76600	N/A			X	X	X	X
	D58314-1	N/A	76600	N/A			X	X	X	X
Universal joint	C66279	N/A	76600	N/A			X	X	X	X
	C66279-2	N/A	76600	N/A			X	X	X	X
	C66279-6	N/A	76600	N/A			X	X	X	X
	D58313-1	N/A	76600	N/A			X	X	X	X
Plate (Upper end)	C61637-10	N/A	76600	N/A	X	X				
	C61637-11	N/A	76600	N/A	X	X				
	C61637-12	N/A	76600	N/A	X	X				
Plate (Rear head end)	C61638-10	N/A	53300	N/A	X	X				
	C61638-11	N/A	53300	N/A	X	X				
	C61638-20	N/A	76600	N/A	X	X				
Tie rod	C68523-3	N/A	76600	N/A	X	X				
RETRACTION ACTUATOR ASSEMBLY										
(1) When SB A300-32-0123 embodied before SB A300-32-0113. **(2) When SB A300-32-0123 embodied after SB A300-32-0113.**										
Sliding rod	C69028-1	N/A	34000	N/A	X	X				
	C69028-4	N/A	34000	N/A	X	X				
	C69029-1 (1)	N/A	32000	N/A			X	X	X	X
	C69029-2	N/A	32000	N/A			X	X	X	X
	C69029-3	N/A	32000	N/A			X	X	X	X
	C69029-4 (2)	N/A	22000	N/A			X	X	X	X
Piston	C67078	N/A	33000	N/A			X	X	X	X
	C67078-1	N/A	33000	N/A			X	X	X	X
End fitting	C61342-4	N/A	36700	N/A	X	X				
	C66510-4	N/A	32000	N/A			X	X	X	X

LINKAGE ASSEMBLY										
Upper multiple link pin (Multiple link/Upper link)	C61505	N/A	76600	N/A	X	X				
	C61505-1	N/A	76600	N/A	X	X				
	C61505-20	N/A	76600	N/A	X	X				
ATA 36-11-05 PNEUMATIC										
(1) "xx" at the end of the P/N stands for any number between 00 and 99.										
Duct flanged (1)	A21274063000 xx	N/A	24000	N/A	X		X	X		
ATA 32-20-00 NOSE LANDING GEAR										
BARREL ASSEMBLY (FIG.07)										
(1) Limitation applicable to WV01 & WV03 only. **(2) Part must be replaced by a new one every time it is removed from the barrel.** **(3) The nut must be replaced by a new one every time it is removed from the pin. When the nut is temporarily removed and reinstalled for the purpose of performing maintenance outside a workshop, no replacement is required provided the nut's removal and reinstallation are performed on the same pin and neither the pin nor the nut accumulates time in service during the period between the removal and reinstallation.**										
End fitting pin nut	D68062	N/A	(2)	N/A	X	X	X	X	X	X
	MS17825-6	N/A	(2)	N/A	X	X	X	X	X	X
End fitting pin	AN6-17	N/A	(2)	N/A	X	X	X	X	X	X
	D61183	N/A	(2)	N/A	X	X	X	X	X	X
	D68063	N/A	(2)	N/A	X	X	X	X	X	X
	NAS1306-22D	N/A	(2)	N/A	X	X	X	X	X	X
End fitting	C62032	N/A	65700	N/A	X	X	X	X	X	X
	C62032-1	N/A	65700	N/A	X	X	X	X	X	X
	C62032-2	N/A	65700	N/A	X	X	X	X	X	X
	C62032-10	N/A	65700	N/A	X	X	X	X	X	X
	D61184	N/A	65700	N/A	X	X	X	X	X	X
	D61184-1	N/A	65700	N/A	X	X	X	X	X	X
	D68076	N/A	65700	N/A	X	X	X	X	X	X
	D68695	N/A	65700	N/A	X	X	X	X	X	X
Rack	C61453	N/A	65700	N/A	X	X (1)				
	C61453-1	N/A	65700	N/A	X	X	X	X	X	X
	C61453-15	N/A	65700	N/A	X	X	X	X	X	X
	C61453-20	N/A	65700	N/A	X	X	X	X	X	X
	C61453-40	N/A	65700	N/A	X	X	X	X	X	X
	C61453-41	N/A	65700	N/A	X	X	X	X	X	X
	C61453-205	N/A	65700	N/A	X	X	X	X	X	X

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
Turning tube	C59050-30	N/A	24000	N/A	X	X	X	X	X	X
	C59050-40	N/A	24000	N/A	X	X	X	X	X	X
	C59050-50	N/A	65700	N/A	X	X	X	X	X	X
	C59050-60	N/A	65700	N/A	X	X	X	X	X	X
	C59050	N/A	24000	N/A	X	X (1)				
	C59050-2	N/A	24000	N/A	X	X (1)	X	X	X	X
	C59050-3	N/A	24000	N/A	X	X (1)				
	C59050-4	N/A	24000	N/A	X	X	X	X	X	X
	C59050-20	N/A	24000	N/A	X	X	X	X	X	X
	C59050-28	N/A	24000	N/A	X	X (1)	X	X	X	X
Torque link pin (Upper & Lower)	C62223-1	N/A	65700	N/A	X	X	X	X	X	X
	C62223-15	N/A	65700	N/A	X	X	X	X	X	X
	C62223-20	N/A	65700	N/A	X	X	X	X	X	X
Torque Links (Upper & Lower)	C59562-2	N/A	65700	N/A	X	X	X	X	X	X
	C59562-3	N/A	65700	N/A			X	X	X	X
	C59562-4	N/A	65700	N/A	X	X	X	X	X	X
	C59562-20	N/A	65700	N/A	X	X	X	X	X	X
Torque link medium pin	C62041-1	N/A	65700	N/A	X	X	X	X	X	X
	C62041-15	N/A	65700	N/A	X	X	X	X	X	X
	C62041-20	N/A	65700	N/A	X	X	X	X	X	X
	C62041-200	N/A	65700	N/A	X	X	X	X	X	X
	D53431	N/A	65700	N/A	X	X	X	X	X	X
	D53431-20	N/A	65700	N/A	X	X	X	X	X	X
Torque link medium pin nut	SL40110P	N/A	(3)	N/A	X	X	X	X	X	X
SHOCK ABSORBER ASSEMBLY										
(1) Limitation applicable to WV01 & WV03 only. **(2) Limitation applicable to WV 00 only.** **(3) Limitation applicable to WV 06 only.** **(4) Part must be replaced by a new one every time it is removed from the sliding rod.** **(5) Part must be replaced by a new one every time it is removed from the upper rod.**										
Upper cam dowel	C62270	N/A	(4)	N/A	X	X	X	X	X	X
Upper cam	C62034-1	N/A	65700	N/A	X	X	X	X	X	X
	C62034-10	N/A	65700	N/A	X	X	X	X	X	X
	C68534	N/A	65700	N/A	X	X	X	X	X	X

Part Name	Part Number	SAFE LIFE LIMITS (*)			Affected Model(s)					
		FH	LDG	Cal	B2-1A B2-1C	B2K-3C B2-20x	B2-320	B4-2C B4-1xx	B4-2xx	C4-203 F4-203
Lower cam	C62035	N/A	65700	N/A	X	X	X	X	X	X
	C62035-1	N/A	65700	N/A	X	X	X	X	X	X
	C68532	N/A	65700	N/A	X	X	X	X	X	X
Restrictor	C62036	N/A	65700	N/A					X (3)	X (3)
	C62036-1	N/A	65700	N/A	X	X (1)				
	C62036-2	N/A	65700	N/A		X (2)				
	C62036-10	N/A	65700	N/A	X	X (1)				
	C67863	N/A	65700	N/A	X	X (1)				
	C67863-1	N/A	65700	N/A	X	X (1)	X	X	X	X
	C67863-2	N/A	65700	N/A	X	X	X	X	X	X
	C67863-3	N/A	65700	N/A	X	X (1)				
	C67863-4	N/A	65700	N/A	X	X	X	X	X	X
	C67863-5	N/A	65700	N/A	X	X (1)				
	C67863-10	N/A	65700	N/A	X	X (1)	X	X	X	X
	C67863-20	N/A	65700	N/A	X	X	X	X	X	X
	C67863-30	N/A	65700	N/A	X	X (1)				
	C67863-40	N/A	65700	N/A	X	X	X	X	X	X
	D68536	N/A	65700	N/A	X	X	X	X	X	X
Lower cam dowel	C62866	N/A	(5)	N/A	X	X	X	X	X	X
Nut (S/A/Barrel)	C64040	N/A	(5)	N/A					X (3)	X (3)
	C64040-1	N/A	(5)	N/A	X	X	X	X	X	X

BILLING CODE 4910–13–C

(h) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for AD 2014–16–13

Accomplishing the actions required by this AD terminates all requirements of AD 2014–16–13.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2017–0145, dated August 31, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0390.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th Street, Des Moines, WA 98198; telephone and fax 206–231–3225.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09847 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0371; Product Identifier 2018–CE–005–AD]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited 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 Pacific Aerospace Limited Model 750XL 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 insufficient clearance between the pitot tubes and the primary support at the flame arrester intersection. 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 June 25, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *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 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 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–2018–0371; 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: 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:

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–2018–0371; Product Identifier 2018–CE–005–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 Civil Aviation Authority of New Zealand (CAA), has issued DCA/750XL/24A, dated March 22, 2018 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pacific Aerospace Limited Model 750XL airplanes. The MCAI states:

> Pacific Aerospace SB PACSB/XL/094 issue 2, dated 20 March 2018 revised to include inspection information, and DCA/750XL/24A updated to introduce the revised SB.
>
> The [CAA] AD is prompted by a production inspection of installed pitot static plumbing which identified insufficient clearance between the pitot tubes and the primary support at the flame arrestor intersection.

This proposed AD would require inspecting the pitot static tubes for chafing damage, replacing tubing as necessary, installing additional clamp for pitot static tube support, protecting plumbing with spiralwrap, and ensuring proper clearance between the pitot tubes and the primary support at the flame arrester intersection. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0371.

Related Service Information Under 1 CFR Part 51

Pacific Aerospace Limited has issued Pacific Aerospace Service Bulletin PACSB/XL/094, Issue 2, dated March 20, 2018. The service information describes procedures for inspecting the pitot static tubing for chafing, replacing tubing as necessary, installing an additional clamp for pitot static tube support, protecting plumbing with spiralwrap, and ensuring proper clearance between the pitot tubes and the primary support at the flame arrester intersection. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of 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 22 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $25 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,420, or $110 per product.

In addition, we estimate that any necessary follow-on actions would take

about 1 work-hour and require parts costing $25, for a cost of $110 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

This 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:

Pacific Aerospace Limited: Docket No. FAA–2018–0371; Product Identifier 2018–CE–005–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pacific Aerospace Limited Model 750XL airplanes, all serial numbers up to and including XL200, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 34: Navigation.

(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 insufficient clearance between the pitot tubes and the primary support at the flame arrester intersection. We are issuing this AD to prevent chafing between the pitot-static plumbing and the flame arrestor, which could lead to damage of the pitot-static lines.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (3) of this AD following the Accomplishment Instructions in Pacific Aerospace Service Bulletin PACSB/XL/094, Issue 2, dated March 20, 2018.

(1) Within the next 100 hours time-in-service (TIS) after the effective date of this AD or within the next 60 days after the effective date of this AD, whichever occurs first, inspect the pitot static tubing adjacent to the flame arrestor for chafing damage.

(2) If any chafing damage is founding during the inspection required in paragraph (f)(1) of this AD, before further flight, repair or replace any damaged tubing and conduct a pitot and static leak check.

(3) Within the next 100 hours TIS after the effective date of this AD or within the next 60 days after the effective date of this AD, whichever occurs first, install an additional support clamp, protect plumbing with spiralwrap, and ensure proper clearance between the pitot tubes and the primary support at the flame arrester intersection.

(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, Small Airplane Standards Branch, FAA; or Civil Aviation Authority of New Zealand (CAA).

(h) Related Information

Refer to MCAI CAA AD DCA/750XL/24A, dated March 22, 2018, for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0371. For service information related to 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 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 May 4, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–10014 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0418; Product Identifier 2017–SW–016–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for Airbus Helicopters Model AS–365N2 and AS 365 N3 helicopters with a lower strobe light installed. This proposed AD would require installing a cable mount, inspecting the lower strobe light wiring harness, and re-routing the wiring harness. This proposed AD is prompted by reports of interference between the lower strobe light wiring harness and the helicopter structure. The actions of this proposed AD are intended to prevent an unsafe condition on these helicopters.

DATES: We must receive comments on this proposed AD by July 10, 2018.

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

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

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0418; 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 European Aviation Safety Agency (EASA) AD, the economic 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 service information identified in this proposed rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.helicopters.airbus.com/website/en/ref/Technical-Support_73.html.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

We will file in the docket all comments that we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2016–0258, dated December 16, 2016, to correct an unsafe condition for Airbus Helicopters Model AS 365 N2 and AS 365 N3 helicopters with certain serial numbers and configurations. EASA advises of in-production helicopters with lower strobe light wiring harnesses that were interfering with either the helicopter structure or the adjacent fuel tank support. EASA further states that an investigation determined that the electrical harnesses of these lower strobe lights were manufactured with additional length to facilitate removal and installation of the lower strobe light assembly. However, the additional length of wiring in the harness was not properly secured to the helicopter structure. According to EASA, this could result in chafing of the harness on the helicopter structure, creating an ignition source adjacent to the inboard fuel tank vapor space, and result in a fuel tank fire.

To address this unsafe condition, the EASA AD requires installing a cable mount, inspecting the lower strobe light electrical harness for damage, and re-routing the electrical harness.

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in its AD. We are proposing this AD because we evaluated all known relevant information and determined that an unsafe condition is likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS365–05.00.73, Revision 1, dated December 12, 2016 (ASB AS365–05.00.73), which specifies procedures for inspecting the lower strobe light electrical harness for interference and chafing with the helicopter structure and also specifies procedures for installing a cable mount to secure the electrical harness. These procedures correspond to Airbus Helicopters modification (MOD) 365P084778.00.

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.

Proposed AD Requirements

This proposed AD would require, within 50 hours time-in-service (TIS), installing a cable mount on the helicopter structure and inspecting the lower strobe light electrical harness and the electrical harness between the cut-off connector and Frame 2000 for torn spiral tape and for any chafing on the harness cables. If the spiral tape is torn, the proposed AD would require, before further flight, replacing the spiral tape.

If there is any chafing on the cable the proposed AD would require, before further flight, replacing the harness.

Helicopters in a MOD 365P084778.00 configuration have already accomplished the actions required by this proposed AD.

Differences Between This Proposed AD and the EASA AD

The EASA AD limits the applicability to helicopters with a lower strobe light installed and with certain serial numbers or that are in a configuration based upon a modification, service information, or engineering drawings. This proposed AD would apply to all Model AS 365 N2 and AS 365 N3 helicopters with a lower strobe light installed.

Costs of Compliance

We estimate that this proposed AD would affect 30 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per work-hour, installing a cable mount and inspecting the strobe light wiring harnesses would require about 1 hour, and required parts would cost about $50, for a cost per helicopter of $135 and a total cost of $4,050 to all U.S. operators.

If required, replacing torn spiral tape would require about 1 work-hour, and required parts would cost $45, for a cost per helicopter of $130.

If required, replacing a chafed wiring harness between the cut-off connector and Frame 2000 would require about 3 work-hours, and required parts would cost $90, for a cost per helicopter of $345.

If required, replacing a chafed lower strobe light wiring harness would require about 3 work-hours, and required parts would cost $154, for a cost per helicopter of $409

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 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, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

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

3. Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

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

We prepared an economic evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2018–0418; Product Identifier 2017–SW–016–AD.

(a) Applicability

This AD applies to Airbus Helicopters Model AS–365N2 and AS 365 N3 helicopters, certificated in any category, with a lower strobe light installed.

(b) Unsafe Condition

This AD defines the unsafe condition as interference between the lower strobe light electrical harness wiring and the helicopter structure. This condition could result in chafing of an electrical harness adjacent to the inboard fuel tank vapor space, a fuel tank fire, and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by July 10, 2018.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

Within 50 hours time-in-service:

(1) Install cable mount part number (P/N) ASMS–A to the helicopter structure as depicted in Figure 1, Detail A and Detail C, of Airbus Helicopters Alert Service Bulletin No. AS365–05.00.73, Revision 1, dated December 12, 2016 (ASB AS365–05.00.73).

(2) Inspect the lower strobe light harness and the harness between the cut-off connector and Frame 2000 for tears in the spiral tape and for chafing of the harness wires. If there is a tear in the spiral tape, before further flight, replace the spiral tape. If there is any chafing, before further flight, replace the chafed harness.

(3) Route the lower strobe light harness and the harness between the cut-off connector and Frame 2000 and secure as depicted in Figure 1, Detail A and Section B–B, of ASB AS365–05.00.73.

Note 1 to paragraph (e) of this AD: Airbus Helicopters identifies the actions in ASB AS365–05.00.73 as Modification 365P084778.00.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Section, Rotorcraft Standards Branch, FAA, may approve AMOCs for this AD. Send your proposal to: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-ASW-FTW-AMOC-Requests@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016–0258, dated December 30, 2016. You may view the EASA AD on the internet at *http://www.regulations.gov* in the AD Docket.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 3340 Lights.

Issued in Fort Worth, Texas, on May 1, 2018.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2018–09982 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0399; Product Identifier 2018–NM–008–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2015–17–04, which applies to certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. AD 2015–17–04 requires replacement of left and right fixed control rods and lever assemblies of the elevator control system. Since we issued AD 2015–17–04, we have received a report indicating that certain revisions of the service information were missing instructions. This proposed AD would require a detailed visual inspection of the key washers and self-locking nuts of the elevator control linkages and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

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

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone: 1–866–538–1247 or direct-dial telephone: 1–514–855–2999; fax: 514–855–7401; email: *ac.yul@aero.bombardier.com*; internet: *http://www.bombardier.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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–2018–0399; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7318; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2018–0399; Product Identifier 2018–NM–008–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

We issued AD 2015–17–04, Amendment 39–18237 (80 FR 50556, August 20, 2015) (''AD 2015–17–04''), for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. AD 2015–17–04 requires replacement of left and right fixed control rods and lever assemblies of the elevator control system. AD 2015–17–04 resulted from reports of a disconnect between the elevator lever and control rod. We issued AD 2015–17–04 to prevent a disconnect between the elevator lever and control rod, which could lead to uncommanded elevator movement of the associated control surface, a large difference between the position of the left and the right elevator control surfaces, and consequent reduced controllability of the airplane and degradation of the structural integrity of the horizontal stabilizer.

Actions Since AD 2015–17–04 Was Issued

Since we issued AD 2015–17–04, we have received a report indicating that certain revisions of the service information were missing instructions for proper installation of the key washers part number BA698–93726–3.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian AD CF–2014–44R1, dated October 6, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702), Model CL–600–2D15 (Regional Jet Series 705), and Model CL–600–2D24 (Regional Jet Series 900) airplanes. The MCAI states:

> During an engineering review of the Elevator Control system, it was discovered that a disconnect between the elevator lever and control rod could lead to an uncommanded elevator movement of the associated control surface. This uncommanded movement may cause a large difference between the position of the left and the right elevator control surface resulting in reduced controllability of the aeroplane and compromised structural integrity of the horizontal stabilizer.
>
> This [Canadian] AD mandates the replacement of the existing elevator lever assemblies and control rods with newly designed ones, which will prevent a disconnect between the components of the elevator control system should a failure occur.
>
> Revision 1 of this [Canadian] AD is issued to require operators, * * * [regardless of previously accomplished actions], to perform

a detailed visual inspection for the correct installation of the tab key washers and to re-torque the nut(s) [and corrective actions that include bending one tab of the key washer on a flat surface of the self-locking nut] if the tab key washer(s) does not have one tab bent on a flat surface of the self-locking nut.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0399.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued the following service information:

• Bombardier Service Bulletin 670BA–27–062, Revision C, dated February 13, 2015. This service information describes procedures for replacing the elevator lever assemblies and control rods.

• Bombardier Service Bulletin 670BA–27–062, Revision E, dated June 8, 2017. This service information describes procedures for replacing the elevator lever assemblies and control rods, and a detailed visual inspection of the key washers and self-locking nuts of the elevator control linkages and corrective actions, which include bending the tab of the key washers and re-torqueing the self-locking nuts.

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

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 549 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement of fixed control rods and lever assemblies (retained actions from AD 2015–17–04).	14 work-hours × $85 per hour = $1,190	$6,712	$7,902	$4,338,198
Detailed visual inspection of the key washers and self-locking nuts (new proposed action).	3 work-hours × $85 per hour = $255	0	255	139,995

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2015–17–04, Amendment 39–18237 (80 FR 50556, August 20, 2015), and adding the following new AD:

Bombardier, Inc.: Docket No. FAA–2018–0399; Product Identifier 2018–NM–008–AD.

(a) Comments Due Date

We must receive comments by June 25, 2018.

(b) Affected ADs

This AD replaces AD 2015–17–04, Amendment 39–18237 (80 FR 50556, August 20, 2015) (''AD 2015–17–04'').

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, serial numbers 10002 through 10337 inclusive.

(2) Bombardier, Inc., Model CL–600–2D15 (Regional Jet Series 705) airplanes and Model CL–600–2D24 (Regional Jet Series 900) airplanes, serial numbers 15001 through 15298 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Reason

This AD was prompted by reports of a disconnect between the elevator lever and control rod and a report indicating that certain revisions of the service information were missing instructions for proper installation of the key washers part number BA698–93726–3. We are issuing this AD to prevent a disconnect between the elevator lever and control rod, which could lead to uncommanded elevator movement of the associated control surface, a large difference between the position of the left and the right elevator control surfaces, and consequent reduced controllability of the airplane and degradation of the structural integrity of the horizontal stabilizer.

(f) Compliance

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

(g) Retained Replacement of Elevator Lever Assemblies and Control Rods, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2015–17–04, with revised service information. Within 9,200 flight hours or 5 years, whichever occurs first, after September 24, 2015 (the effective date of AD 2015–17–04): Replace the left and right fixed control rods and lever assemblies of the elevator control system with newly designed control rods and lever assemblies, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–062, Revision C, dated February 13, 2015; or Bombardier Service Bulletin 670BA–27–062, Revision E, dated June 8, 2017. After the effective date of this AD, only Bombardier Service Bulletin 670BA–27–062, Revision E, dated June 8, 2017, may be used.

(h) New Requirement of This AD: Detailed Visual Inspection and Corrective Actions

Within 8,800 flight hours after the effective date of this AD, do a detailed visual inspection of the key washers and self-locking nuts of the elevator control linkages, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 670BA–27–062, Revision E, dated June 8, 2017. Do all applicable corrective actions before further flight.

(i) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–27–062, dated December 12, 2013; Bombardier Service Bulletin 670BA–27–062, Revision A, dated April 1, 2014; Bombardier Service Bulletin 670BA–27–062, Revision B, dated October 10, 2014; or Bombardier Service Bulletin 670BA–27–062, Revision D, dated December 1, 2015. This service information is not incorporated by reference in this AD.

(2) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraphs (i)(2)(i) or (i)(2)(ii) of this AD, provided those actions were done concurrently with Bombardier Service Non-Incorporated Engineering Order (SNIEO) KBA670–93707 S02, dated July 21, 2015.

(i) Bombardier Service Bulletin 670BA–27–062, dated December 12, 2013; Bombardier Service Bulletin 670BA–27–062, Revision A, dated April 1, 2014; or Bombardier Service Bulletin 670BA–27–062, Revision B, dated October 10, 2014. This service information is not incorporated by reference in this AD.

(ii) Bombardier Service Bulletin 670BA–27–062, Revision C, dated February 13, 2015 (80 FR50556, August 20, 2015). This service information is incorporated by reference in this AD.

(3) This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Bombardier Service Bulletin 670BA–27–062, Revision D, dated December 1, 2015. This service information is not incorporated by reference in this AD.

(j) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; fax: 516–794–5531.

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

(ii) AMOCs approved previously for AD 2015–17–04, are approved as AMOCs for the corresponding provisions of this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian AD CF–2014–44R1, dated October 6, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0399.

(2) For more information about this AD, contact Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7318; fax: 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone: 1–866–538–1247 or direct-dial telephone: 1–514–855–2999; fax: 514–855–7401; email: *ac.yul@aero.bombardier.com*; internet: *http://www.bombardier.com*. You may view this service information at the FAA, Transport Standards Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued in Des Moines, Washington, on May 1, 2018.

Dionne Palermo,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09846 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0016; Airspace Docket No. 17–ANM–14]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Aspen, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace designated as an extension and Class E airspace extending upward from 700 feet above the surface at Aspen-Pitkin County Airport/Sardy Field, Aspen, CO, by realigning the Class E extension and removing the part-time Notice to Airmen (NOTAM) language from the legal description, and reducing the Class E airspace area extending upward from 700 feet above the surface and removing Class E airspace extending upward from 1,200 feet above the surface. This action would also update the airport's geographic coordinates in the associated Class D and E airspace areas to match the FAA's aeronautical database. These changes are necessary to accommodate

airspace redesign for the safety and management of instrument flight rules (IFR) operations within the National Airspace System. Also, an editorial change would be made to the Class D airspace and Class E extension airspace legal descriptions replacing Airport/Facility Directory with the term Chart Supplement.

DATES: Comments must be received on or before June 25, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0016; Airspace Docket No. 17–ANM–14, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone:

(202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html*

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 2200 S 216th St., Des Moines, WA 98198–6547; telephone (206) 213–2253.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E airspace at Aspen-Pitkin County Airport/Sardy Field, Aspen, CO, to support IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0016; Airspace Docket No. 17–ANM–14''. The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace designated as an extension, Class E airspace extending upward from 700 feet above the surface, and updating the geographic coordinates for all Class D and E airspace areas at Aspen-Pitkin County Airport/Sardy Field, Aspen, CO.

Class E airspace designated as an extension would be realigned to that airspace within 3.5 miles west and 2.7 miles east (from 2.7 miles each side) of the 340° bearing (from 315°) from the Aspen-Pitkin County Airport/Sardy Field Airport, extending from the 4.3-mile radius to 7.8 miles north (from 7.4 miles northwest) of the airport. Also, the part-time NOTAM language would be removed from the legal description since the airspace is in effect continuously.

Class E airspace extending upward from 700 feet above the surface would be reduced to that airspace within 6.6 miles west and 3.2 miles east of the 354° bearing from the Aspen-Pitkin County Airport/Sardy Field Airport extending to 11.1 miles north of the airport (from a much larger rectangular area defined as beginning at lat. 39°04′00″ N, long. 106°40′02″ W; to lat. 39°04′00″ N, long. 107°44′02″ W; to lat. 39°39′00″ N, long. 107°44′02″ W; to lat. 39°39′00″ N, long. 106°40′02″ W, to the point of beginning). Also, Class E airspace extending upward from 1,200 feet would be removed as this airspace is wholly contained in the Denver Class E en route airspace area.

These changes are necessary to accommodate airspace redesign for the safety and management of IFR operations under standard instrument approach procedures at the airport. Also, an editorial change would be made to the Class D and Class E airspace legal descriptions replacing Airport/Facility Directory with the term Chart Supplement.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ANM CO D Aspen, CO [Amended]

Aspen-Pitkin CountyAirport/Sardy Field, CO
(Lat. 39°13′19″ N, long. 106°52′06″ W)

That airspace extending upward from the surface to and including 10,300 feet mean sea level (MSL) within a 4.3-mile radius of Aspen-Pitkin County Airport/Sardy Field. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM CO E2 Aspen, CO [Amended]

Aspen-Pitkin County Airport/Sardy Field, CO
(Lat. 39°13′19″ N, long. 106°52′06″ W)

That airspace extending upward from the surface within a 4.3-mile radius of Aspen-Pitkin County Airport/Sardy Field. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ANM CO E4 Aspen, CO [Amended]

Aspen-Pitkin County Airport/Sardy Field, CO
(Lat. 39°13′19″ N, long. 106°52′06″ W)

That airspace extending upward from the surface within 3.5 miles west and 2.7 miles east of the 340° bearing from Aspen-Pitkin County Airport/Sardy Field, extending from the 4.3-mile radius to 7.8 miles north of the airport.

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

* * * * *

ANM CO E5 Aspen, CO [Amended]

Aspen-Pitkin County Airport/Sardy Field, CO
(Lat. 39°13′19″ N, long. 106°52′06″ W)

That airspace extending upward from 700 feet above the surface within 6.6 miles west and 3.2 miles east of a 354° bearing from Aspen-Pitkin County Airport/Sardy Field extending to 11.1 miles north of the airport.

Issued in Seattle, Washington, on May 4, 2018.

Byron G. Chew,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09989 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2018–0034; Airspace Docket No. 17–ANM–34]

Proposed Amendment of Class E Airspace; Kemmerer, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E surface area airspace at Kemmerer Municipal Airport, Kemmerer, WY, by enlarging the airspace area north of the airport and removing the Notice to Airmen (NOTAM) part-time status for the airspace. Also, this action would reduce Class E airspace extending upward from 700 feet above the surface and remove Class E airspace extending upward from 1,200 feet above the surface. After a review of the airspace, the FAA found these actions necessary for the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before June 25, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2018–0034; Airspace Docket No. 17–ANM–34, at the beginning of your comments. You may also submit comments through the internet at *http://www.regulations.gov.*

FAA Order 7400.11B, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11B at NARA, call (202) 741–6030, or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW, Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Kemmerer Municipal Airport, Kemmerer, WY, to accommodate airspace redesign in support of IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA–2018–0034; Airspace Docket No. 17–ANM–34) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number).

Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2018–0034; Airspace Docket No. 17–ANM–34.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW, Renton, WA 98057.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA proposes to amend Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying the north extension of the Class E surface area airspace at Kemmerer Municipal Airport, Kemmerer, WY, to within 1.8 miles (from 1 mile) each side of the 354° bearing (from the 360° bearing) from the airport extending from the 4.3-mile radius of the airport to 7.7 miles (from 7 miles) north of the airport. Also, the NOTAM part-time status for the airspace would be removed to make the airspace effective continuously.

The FAA also proposes to amend the Class E airspace extending upward from 700 feet above the surface to within a 4.3-mile radius of Kemmerer Municipal Airport from the airport 035° bearing clockwise to the airport 006° bearing, and within a 9.5 mile radius of the airport from the airport 006° bearing clockwise to the airport 035° bearing, and within 2.2 miles each side of the 354° bearing from the airport extending from the 4.3-mile radius of the airport to 15.9 miles north of the airport, and within 2.2 miles each side of the 172° bearing from the airport extending from the 4.3-mile radius of the airport to 7.4 miles south of the airport (from within the 8-mile radius of Kemmerer Municipal Airport, and within 4 miles each side of the 174° bearing from the airport extending from the airport 11 miles south of the airport, and within 3.6 miles each side of the 354° bearing from the airport extending from the airport to 16.1 miles northwest of the airport). Additionally, the Class E airspace extending upward from 1,200 feet above the surface would be removed because sufficient airspace exists (Wasatch and Jackson Class E airspace areas) and duplication is not necessary. This airspace redesign is necessary for the safety and management of IFR operations at the airport.

Class E airspace designations are published in paragraph 6002, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017 and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and

Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

ANM WY E2 Kemmerer, WY [Amended]

Kemmerer Municipal Airport, WY
(Lat. 41°49′27″ N, long. 110°33′25″ W)

Within a 4.3-mile radius of Kemmerer Municipal Airport, and within 1.8-miles each side of the 354° bearing from the airport extending from the 4.3-mile radius of the airport to 7.7 miles north of the airport.

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

* * * * *

ANM WY E5 Kemmerer, WY [Amended]

Kemmerer Municipal Airport, WY
(Lat. 41°49′27″ N, long. 110°33′25″ W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of Kemmerer Municipal Airport from the airport 035° bearing clockwise to the airport 006° bearing, and within a 9.5-mile radius of the airport from the airport 006° bearing clockwise to the airport 035° bearing, and within 2.2 miles each side of the 354° bearing from the airport extending from the 4.3-mile radius of the airport to 15.9 miles north of the airport, and within 2.2 miles each side of the 172° bearing from the airport extending from the 4.3-mile radius of the airport to 7.4 miles south of the airport.

Issued in Seattle, Washington, on May 4, 2018.

Byron G. Chew,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2018–09986 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[Docket No. FHWA–2017–0001]

[RIN 2125–AF72]

Design Standards for Highways

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA requests comments on a proposed revision to design standards and standard specifications that applies to new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, and rehabilitation projects on the National Highway System (NHS). The proposed rule would incorporate by reference the latest versions of design standards and standard specifications previously adopted and incorporated by reference, and would remove the corresponding outdated or superseded versions of these standards and specifications. Use of the updated standards will be required for all NHS projects authorized to proceed with design activities on or after the effective date of the final rule.

DATES: Comments must be received on or before June 11, 2018. Late comments will be considered to the extent practicable.

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

- *Fax:* 1–202–493–2251;
- *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, 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; or
- *Electronically through the Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket name, and docket number (FHWA–2017–001) or Regulatory Identification Number (RIN) for this rulemaking (2125–AF72). Note that all comments received will be posted without change to: *http://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Hilton, Office of Program Administration (HIPA–20), (512) 536–5970, or via email at *Elizabeth.Hilton@dot.gov,* or Ms. Hannah Needleman, Office of the Chief Counsel (HCC–30), (202) 366–1345, or via email at *Hannah.Needleman@dot.gov.* Office hours are from 8:00 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document may be viewed online under the docket number noted above through the Federal eRulemaking portal at: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days this year. Please follow the online instructions.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at: *http://www.archives.gov/federal-register* and the Government Publishing Office's website at: *http://www.gpo.gov/fdsys.* In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. The DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be viewed at: *www.dot.gov/privacy.*

Physical access to the Docket is available at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20950, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Background

The FHWA proposes to modify its regulations governing new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, and rehabilitation projects on the NHS (including the Interstate System), by incorporating by reference the current versions of design standards and standard specifications previously adopted and incorporated by reference

under 23 CFR 625.4, and removing the outdated or superseded versions of these standards and specifications. Several of these design standards and standard specifications were established by the American Association of State Highway and Transportation Officials (AASHTO) and the American Welding Society (AWS) and were previously adopted by FHWA through rulemaking. The new standards or specifications replace previous versions of these documents and represent the most recent refinements that professional organizations have formally accepted. After review of the various standards and specifications, FHWA proposes to adopt them for NHS projects.

The proposed revisions include referencing the 2016 edition of the AASHTO *A Policy on Design Standards—Interstate System;* the 2017 edition of the *AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards;* the 2017 edition of the *AASHTO Load and Resistance Factor Design (LRFD) Bridge Construction Specifications;* the 2016 edition of the *AASHTO/AWS D1.5M/D1.5: 2015 Bridge Welding Code;* and the 2017 edition of the *AASHTO LRFD Bridge Design Specifications.* The proposed revisions also include referencing the recent interim revisions of AASHTO's *Standard Specifications for Structural Supports of Highway Signs, Luminaires, and Traffic Signals.*

The AASHTO is an organization that represents 52 State highway and transportation agencies (including the District of Columbia and Puerto Rico). Its members consist of the duly constituted heads and other chief officials of those agencies. The Secretary of Transportation is an ex-officio member, and DOT staff participates in various AASHTO activities as nonvoting representatives. Among other functions, AASHTO develops and issues standards, specifications, policies, guides, and related materials for use by the States for highway projects. Many of the standards, policies, and standard specifications that were approved by FHWA and incorporated into 23 CFR part 625 were developed and issued by AASHTO.

While these adopted standards and specifications apply to all projects on the NHS (including the Interstate System), FHWA encourages the use of flexibility and a context-sensitive approach to consider a full range of project and user needs and the impacts to the community and natural and human environment. The FHWA also encourages State departments of transportation (State DOT) and local agencies to consider using design exceptions to achieve a design that balances project and user needs, performance, cost, environmental implications, and community values. These adopted design standards provide a range of acceptable values for highway features, and this flexibility should allow for a design that best suits the desires of the community while satisfying the purpose for the project and needs of its users.

At a minimum, State DOTs and local agencies should select design values based on an evaluation of the context of the facility, needs of all the various project users, safety, mobility (*i.e.,* traffic performance), human and natural environmental impacts, and project costs. For most situations, there is sufficient flexibility within the range of acceptable values to achieve a balanced design. However, when this is not possible, a design exception may be appropriate. State and local agencies may consider designs that deviate from the design standards when warranted based on the conditions, context, and consequences of the proposed projects. Additional information on FHWA's adopted design standards and design exceptions is available at: *http://www.fhwa.dot.gov/design/standards* and in FHWA's publication titled *Mitigation Strategies for Design Exceptions,* available at: *http://safety.fhwa.dot.gov/geometric/pubs/mitigationstrategies/fhwa_sa_07011.pdf.*

Discussion under 1 CFR part 51

The documents that FHWA proposes to incorporate by reference are reasonably available to interested parties, primarily State DOTs and local agencies carrying out Federal-aid highway projects. These documents represent the most recent refinements that professional organizations have formally accepted and are currently in use by the transportation industry. The documents are also available for review at DOT's National Transportation Library or may be obtained from AASHTO or AWS. The specific standards are discussed in greater detail elsewhere in this preamble.

Section-by-Section Discussion of the Proposed Changes to 23 CFR 625

The FHWA propose to remove the introductory text of § 625.4. It is duplicative of information contained in paragraph (d) and does not meet Office of the Federal Register formatting requirements for incorporation by reference.

The FHWA proposes to revise § 625.4(a)(2) to replace the reference to the January 2005 edition of *A Policy on Design Standards—Interstate System* with the May 2016 edition. This Policy is a comprehensive manual to assist State DOTs and local agencies in administrative, planning, and educational efforts pertaining to design formulation for projects on the Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate). The AASHTO May 2016 edition incorporates the latest research and current industry practices, and is applicable to new construction and reconstruction projects on the Interstate except in Alaska and Puerto Rico (23 U.S.C. 103(c)(1)(B)(ii)). Resurfacing, restoration, and rehabilitation projects must meet the Interstate standards that were in place at the time of original construction or inclusion into the Interstate System. The updated guide clarifies ambiguities in the prior edition and provides additional flexibility regarding the design traffic volumes to be accommodated. It increases the median width in rural areas to reduce cross-median crashes and adds recommendations about extended access control and multimodal considerations at interchanges. Basic criteria for other geometric design standards remain essentially the same. The Agency considers the changes made in the 2016 version minor in nature.

With respect to the design standards and standards specifications for bridges and structures under § 625.4(b), FHWA generally proposes to adopt the current versions of the standards and specifications it has previously adopted from AASHTO and AWS. The updated documents contain changes that represent discoveries or improvements in the state-of-the-knowledge and practices of State DOTs and local agencies that have occurred since the previous standards and specifications were incorporated by reference into 23 CFR part 625.

The FHWA proposes to revise § 625.4(b)(2) to incorporate by reference the current version of the revised AASHTO bridge construction specifications entitled *LRFD Bridge Construction Specifications,* 4th Edition. These specifications, which are intended for use in the construction of bridges, employ the LRFD methodology and are designed to be used in conjunction with the below referenced *AASHTO LRFD Bridge Design Specifications.* Changes in the 4th Edition reflect the latest research and developments, and specifications promulgated by AASHTO.

The FHWA proposes to revise § 625.4(b)(3) to incorporate by reference the current version of the revised

AASHTO bridge design specifications entitled *AASHTO LRFD Bridge Design Specifications,* 8th Edition. The *AASHTO LRFD Bridge Design Specifications* are intended for use in the design, evaluation, and rehabilitation of bridges, and are mandated by the FHWA for use on all bridges using Federal funding. These Specifications employ the LRFD methodology using factors developing from current statistical knowledge of loads and structural performance. Changes in the 8th Edition reflect the latest research, developments, and specifications promulgated by AASHTO.

The FHWA proposes to make a minor editorial correction to the reference to the *LRFD Movable Highway Bridge Design Specifications* referenced in paragraph § 625.4(b)(4) to change ''including'' to ''with'' when citing the Interim Revisions.

The FHWA proposes to revise § 625.4(b)(5) to incorporate by reference the current version of the revised AASHTO bridge welding code entitled *AASHTO/AWS D1.5M/D1.5: 2015 Bridge Welding Code,* 7th Edition; AASHTO, 2016. This document covers AASHTO welding requirements for welded highway bridges made from carbon and low-alloy construction steels. Chapters cover design of welded connections, workmanship, technique, procedure and performance qualification, inspection, and stud welding. Changes in the 7th Edition reflect the latest research, developments, and specifications promulgated by AASHTO and AWS.

The FHWA proposes to revise § 625.4(b)(7) to incorporate by reference the current version of the revised AASHTO structural support specification entitled *Standard Specifications for Structural Supports for Highway Sign, Luminaires, and Traffic Signals,* 6th Edition, AASHTO, 2013, with 2015 Interim Revisions. These Standards are applicable to the structural design of supports for highway signs, luminaires, and traffic signals. The Standards are intended to serve as a standard and guide for the design, fabrication, and erection of these types of supports. Changes in the 2015 Interim Revisions reflect the latest research, developments, and specifications promulgated by AASHTO.

The FHWA proposes to revise § 625.4(c)(2) to incorporate by reference the current version of the revised AASHTO sampling and testing specification entitled *Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards,* AASHTO, 2017. These Standards contain specifications, test methods, and provisional standards commonly used in the construction of highway facilities. This edition of the standard specifications will replace those adopted by AASHTO in 1995. Changes in the 2016 standard specifications reflect current materials and testing technologies and practices.

The FHWA proposes to revise § 625.4(c)(3) to update the title and cross-reference of the referenced regulation to ''Quality Assurance Procedures for Construction.''

Use of the updated standards will be required for all NHS projects authorized to proceed with design activities on or after the effective date of the final rule, subject to the exceptions in 23 CFR 625.3(f).

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after DOT has had the opportunity to review the comments submitted.

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs), and USDOT Regulatory Policies and Procedures

The FHWA has determined that this action does not constitute a significant regulatory action within the meaning of Executive Order (E.O.) 12866 or within the meaning of DOT regulatory policies and procedures. The proposed amendments would update several industry design standards and standard specifications adopted and incorporated by reference under 23 CFR part 625 and would remove the corresponding outdated or superseded versions of these standards and specifications. In addition, this action complies with the principles of E.O. 13563. After evaluating the costs and benefits of these proposed amendments, FHWA anticipates that the economic impact of this rulemaking would be minimal. These incremental changes are not anticipated to adversely affect, in any material way, any sector of the economy. In addition, these changes will not create a serious inconsistency with any other agency's action or materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. These updated standards and specifications represent the most recent refinements that professional organizations have formally accepted. The FHWA anticipates that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not necessary. Finally, this proposed rule is not an E.O. 13771 regulatory action because it is not significant under E.O. 12866.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354; 5 U.S.C. 60l–612), FHWA has evaluated the effects of this proposed rule on small entities, such as local governments and businesses. Based on the evaluation, FHWA anticipates that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments would update several industry design standards and standard specifications adopted and incorporated by reference under 23 CFR part 625. The FHWA believes the projected impact upon small entities that utilize Federal-aid highway program funding for the development of highway improvement projects on the NHS would be negligible. Therefore, I certify that the proposed action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

The FHWA has determined that this NPRM would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, March 22, 1995, 109 Stat. 48). The actions proposed in this NPRM would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $155 million or more in any 1 year (when adjusted for inflation) in 2014 dollars for either State, local, and Tribal governments in the aggregate, or by the private sector. The FHWA will publish a final analysis, including its response to public comments, when it publishes a final rule. In addition, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State,

local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

The FHWA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13132. The FHWA has determined that this action would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA has also determined that this action would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. This E.O. applies because State and local governments would be directly affected by the proposed regulation, which is a condition on Federal highway funding. Local entities should refer to the Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction, for further information.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that the proposed rule does not contain collection of information requirements for the purposes of the PRA.

National Environmental Policy Act

The FHWA has analyzed this proposed rule for the purposes of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*) and has determined that this action would not have any effect on the quality of the human and natural environment because it only would make technical changes and incorporate by reference the latest versions of design standards and standard specifications previously adopted and incorporated by reference under 23 CFR part 625 and would remove the corresponding outdated or superseded versions of these standards and specifications. The proposed rule qualifies as a categorical exclusion to NEPA under 23 CFR 771.117(c)(20).

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed rule under EO13175, and believes that it would not have substantial direct effects on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal law. This proposed rule would not impose any direct compliance requirements on Indian Tribal governments nor would it have any economic or other impacts on the viability of Indian Tribes. Therefore, a Tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

The FHWA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The FHWA has determined that this proposed action is not a significant energy action under the E.O. and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would effect a taking of private property or otherwise have taking implications under E.O. 12630.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12898 (Environmental Justice)

The E.O. 12898 requires that each Federal Agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this rule does not raise any environmental justice issues.

Regulation Identifier Number

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 23 CFR part 625: Design standards, Grant programs-transportation, Highways and roads, Incorporation by reference.

Issued on: April 30, 2018.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

In consideration of the foregoing, FHWA proposes to amend 23 CFR part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

■ 1. The authority citation for part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; Sec. 1073 of Pub. L. 102–240, 105 Stat. 1914, 2012; 49 CFR 1.48(b) and (n).

■ 2. Amend § 625.4 by;

■ a. Removing the introductory text;

■ b. Revising paragraphs (a)(2), (b)(2) through (5), (7), (c)(2) and (3), (d)(1)(ii), (iv) through (viii);

■ c. Adding paragraph (d)(1)(ix), and

■ d. Revising the introductory text of (d)(2).

The revision and additions read as follows:

§ 625.4 Standards, policies, and standard specifications.

(a) * * *

(2) A Policy on Design Standards—Interstate System, AASHTO, May 2016 (incorporated by reference; see § 625.4(d)).

* * * * *

(b) * * *

(2) AASHTO LRFD Bridge Construction Specifications, 4th Edition, AASHTO, 2017 (incorporated by reference; see § 625.4(d)).

(3) AASHTO LRFD Bridge Design Specifications, 8th Edition, AASHTO,

2017 (incorporated by reference; see § 625.4(d)).

(4) AASHTO LRFD Movable Highway Bridge Design Specifications, 2nd Edition, AASHTO, 2007, with 2008, 2010, 2011, 2012, 2014, and 2015 Interim Revisions, (incorporated by reference; see § 625.4(d)).

(5) AASHTO/AWS D1.5M/D1.5:2015 Bridge Welding Code, 7th Edition, AASHTO, 2016 (incorporated by reference; see § 625.4(d)).

* * * * *

(7) Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, 6th Edition, AASHTO, 2013, with 2015 Interim Revisions (incorporated by reference; see § 625.4(d)).

* * * * *

(c) *Materials.*

* * * * *

(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards, AASHTO, 2017. (incorporated by reference, see § 625.4(d)(1)).

(3) Quality Assurance Procedures for Construction, refer to 23 CFR part 637, subpart B.

(d) * * *

(1) * * *

(ii) A Policy on Design Standards—Interstate System, May 2016.

* * * * *

(iv) AASHTO LRFD Bridge Construction Specifications, 4th Edition, 2017.

(v) AASHTO LRFD Bridge Design Specifications, 8th Edition, 2017.

(vi) AASHTO LRFD Movable Highway Bridge Design Specifications, 2nd Edition, 2007; with 2008, 2010, 2011, 2012, 2014, and 2015 Interim Revisions.

(vii) AASHTO/AWS D1.5M/D1.5: 2015 Bridge Welding Code, 7th Edition, 2016.

(viii) Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, 6th Edition, 2013; with 2015 Interim Revisions.

(ix) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, and AASHTO Provisional Standards, AASHTO, 2017.

(2) American Welding Society (AWS), 8669 NW 36 Street, # 130 Miami, FL 33166–6672; *www.aws.org;* or (800) 443–9353 or (305) 443–9353.

* * * * *

[FR Doc. 2018–09609 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–22–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R10–OAR–2017–0582; FRL–9977–96—Region 10]

Air Plan Approval; ID, Pinehurst PM_{10} Redesignation, Limited Maintenance Plan; West Silver Valley 2012 Annual $PM_{2.5}$ Emission Inventory

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 29, 2017, the Idaho Department of Environmental Quality (IDEQ) submitted a redesignation request and limited maintenance plan (LMP) for particulate matter with an aerodynamic diameter less than or equal to ten micrometers (PM_{10}) for the PM_{10} National Ambient Air Quality Standard (NAAQS) developed for the Pinehurst PM_{10} Nonattainment Area (NAA) and Pinehurst PM_{10} Expansion Nonattainment Area (NAA). The redesignation request asserts that the area meets the Clean Air Act (CAA) requirements for redesignation identified in section 107(d)(3)(E). This limited maintenance plan for these contiguous nonattainment areas addresses maintenance of the PM_{10} standard for a ten-year period beyond redesignation. The Environmental Protection Agency (EPA) proposes to approve this IDEQ Implementation Plan (SIP) revision. The EPA also proposes to approve the September 15, 2013, high wind exceptional event at the Pinehurst monitoring station. Additionally, the EPA is proposing to approve the emissions inventory for the West Silver Valley annual $PM_{2.5}$ NAA.

DATES: Written comments must be received on or before June 11, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2017–0582, 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: Justin Spenillo, Air Planning Unit, Office of Air and Waste (OAW–150), Environmental Protection Agency, Region 10, 1200 Sixth Ave., Suite 900, Seattle, WA 98101; telephone number: 206–553–6125, email address: *spenillo.justin@epa.gov.*

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

Table of Contents

I. This Action
II. Background
  A. PM_{10} NAAQS
  B. Pinehurst PM_{10} NAA and Planning Background
III. Requirements for Redesignation
  A. CAA Requirements for Redesignation of Nonattainment Area
  B. The LMP Option for PM_{10} Nonattainment Areas
  C. Conformity Under the LMP Option
IV. Review of the Idaho Submittal Addressing the Requirements for Redesignation and LMPs
  A. Has the Pinehurst PM_{10} NAA attained the applicable NAAQS?
  B. Does the Pinehurst PM_{10} NAA have a fully approved SIP under section 110(k) of the CAA?
  C. Has the IDEQ met all applicable requirements under section 110 and Part D of the CAA?
  D. Has the IDEQ demonstrated that the air quality improvement is due to permanent and enforceable reductions?
  E. Does the area have a fully approved maintenance plan pursuant to section 175A of the CAA?
  F. Has the IDEQ demonstrated that the Pinehurst PM_{10} NAA qualifies for the LMP Option?
  G. Does the IDEQ have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?
  H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR part 58?
  I. Does the plan meet the clean air act requirements for contingency provisions?
  J. How is conformity treated under a limited maintenance plan?
V. 2013 $p.m._{10}$ High Wind Exceptional Event
VI. West Silver Valley 2012 Annual $PM_{2.5}$ Emission Inventory

A. Requirements for Emissions Inventories
B. West Silver Valley $PM_{2.5}$ Base Year Emissions Inventory
C. EPA's Evaluation
VII. Proposed Action
VIII. Statutory and Executive Order Reviews

I. This Action

The EPA is proposing to approve the limited maintenance plan (LMP) submitted by the Idaho Department of Environmental Quality (IDEQ) on September 29, 2017, for the Pinehurst PM_{10} Nonattainment Area (NAA) and Pinehurst PM_{10} Expansion NAA and to concurrently redesignate the areas to attainment for the PM_{10} National Ambient Air Quality Standard (NAAQS). Throughout this notice, Pinehurst PM_{10} NAA shall refer to both the original Pinehurst PM_{10} NAA and Pinehurst PM_{10} Expansion NAA unless noted otherwise. The EPA has reviewed air quality data for the area and determined that the Pinehurst NAA attained the PM_{10} NAAQS by the required attainment date, and that monitoring data continue to show attainment. The EPA is proposing to approve exclusion of data from a high wind exceptional event on September 15, 2013, that impacted PM_{10} values at the Pinehurst monitor as they are needed to meet the LMP criteria. Separately, the EPA is proposing to approve the base year emission inventory for the West Silver Valley (WSV) $PM_{2.5}$ NAA in the Silver Valley, Idaho.

II. Background

A. PM_{10} NAAQS

''Particulate matter,'' also known as particle pollution or PM, is a complex mixture of extremely small particles and liquid droplets. The size of particles is directly linked to their potential for causing health problems. The EPA is concerned about particles that are 10 micrometers in diameter or smaller because those are the particles that generally pass through the throat and nose and enter the lungs. Once inhaled, these particles can affect the heart and lungs and can cause serious adverse health effects. People with heart or lung diseases, children and older adults are the most likely to be affected by particle pollution exposure. Healthy individuals may also experience temporary symptoms from exposure to elevated levels of particle pollution.

On July 1, 1987, the EPA promulgated a NAAQS for PM_{10} (52 FR 24634). The EPA established a 24-hour standard of 150 $\mu g/m^3$ and an annual standard of 50 $\mu g/m^3$, expressed as an annual arithmetic mean. The EPA also promulgated secondary PM_{10} standards that were identical to the primary standards. In a rulemaking action dated October 17, 2006, the EPA retained the 24-hour PM_{10} standard but revoked the annual PM_{10} standard (71 FR 61144, effective December 18, 2006).

B. Pinehurst PM_{10} NAA and Planning Background

On July 1, 1987, the EPA promulgated the PM_{10} NAAQS (52 FR 24634) and on August 7, 1987, the EPA identified the Pinehurst area as a ''Group I'' area with a strong likelihood of violating the NAAQS (52 FR 29383). On March 15, 1991, the EPA published a notice announcing that the Pinehurst area had been designated a PM_{10} NAA upon the November 15, 1990 enactment of the 1990 CAA Amendments. In this notice, the EPA identified that the IDEQ needed to develop and submit by November 15, 1991, a plan that would bring the area into attainment by no later than December 31, 1994 (56 FR 11101). On November 6, 1991, the Pinehurst PM_{10} NAA, which included the City of Pinehurst, was classified as moderate under sections 107(d)(4)(B) and 188(a) of the CAA (56 FR 56694), and it had an attainment date of no later than December 31, 1994. On December 21, 1993, the EPA designated the Pinehurst PM_{10} Expansion NAA, a contiguous area to the south of the City of Pinehurst and the existing Pinehurst PM_{10} NAA; the action became effective January 20, 1994 (58 FR 67334). The Pinehurst Expansion area had an attainment date no later than December 31, 2000. These two nonattainment areas, while contiguous and share common planning elements, have separate timing requirements and are considered separate nonattainment areas.

After these designations to nonattainment for the Pinehurst PM_{10} NAA, the IDEQ worked with the community of Pinehurst to develop a plan to bring the Pinehurst PM_{10} NAA into attainment. The IDEQ submitted a plan for the Pinehurst PM_{10} NAA, both the original and expansion areas, to the EPA on April 14, 1992, as a moderate PM_{10} State Implementation Plan (SIP) under section 189(a) of the CAA. The IDEQ's submitted plan addressed PM_{10} reductions through a suite of measures aimed at reducing wood smoke, primarily through a program to replace woodstoves with cleaner burning devices. The EPA conditionally approved the IDEQ's moderate PM_{10} SIP applicable to the City of Pinehurst on August 25, 1994 (59 FR 43745) and conditionally approved the revisions applicable to the Pinehurst PM_{10} Expansion area on May 26, 1995 (60 FR 27891). Both plans were conditionally approved because these areas had failed to submit contingency measures. The IDEQ submitted a contingency plan covering both areas on July 13, 1995, which the EPA subsequently approved on October 2, 2014 (79 FR 59435). On August 23, 2001, the EPA published a finding that the two areas had attained the PM_{10} standard by their respective attainment dates (66 FR 44304).

The IDEQ prepared a LMP for the Pinehurst PM_{10} NAA and provided notice and an opportunity for public comment on the proposed plan. On September 29, 2017, the IDEQ submitted the Pinehurst PM_{10} LMP to EPA for approval and has requested that the EPA redesignate the Pinehurst NAA to attainment for the PM_{10} NAAQS.

III. Requirements for Redesignation

A. CAA Requirements for Redesignation of Nonattainment Area

A nonattainment area can be redesignated to attainment after the area has measured air quality data showing the NAAQS has been attained and when certain planning requirements are met. Section 107(d)(3)(E) of the CAA, and the General Preamble to Title I provide the criteria for redesignation (57 FR 13498, April 16, 1992). These criteria are further clarified in a policy and guidance memorandum from John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards dated September 4, 1992, entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' (Calcagni memo). The criteria for redesignation are:

1. The Administrator has determined that the area has attained the applicable NAAQS;
2. The Administrator has fully approved the applicable SIP for the area under section 110(k) of the CAA;
3. The state has met all requirements applicable to the area under section 110 and part D of the CAA;
4. The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions; and
5. The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA.

B. The LMP Option for PM_{10} Nonattainment Areas

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} nonattainment areas seeking redesignation to attainment (Memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division,

entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' (LMP Option memo)). The LMP Option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard 10 years into the future. Thus, the EPA has already provided the maintenance demonstration for areas meeting the criteria outlined in the LMP Option memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP are no longer necessary.

To qualify for the LMP Option, the area should have attained the PM_{10} NAAQS and, based upon the most recent five years of air quality data at all monitors in the area, the 24-hour design value should be at or below 98 μg/m^3. If an area cannot meet this test, it may still be able to qualify for the LMP Option if the average design value (ADV) for the site is less than the site-specific critical design value (CDV). In addition, the area should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. The LMP Option memo also identifies core provisions that must be included in the LMP. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

C. Conformity Under the LMP Option

The transportation conformity rule and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without conforming to an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM_{10} NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period and therefore a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

IV. Review of the Idaho Submittal Addressing the Requirements for Redesignation and LMPs

A. Has the Pinehurst PM_{10} NAA attained the applicable NAAQS?

To demonstrate that an area has attained the PM_{10} NAAQS, the IDEQ must submit an analysis of ambient air quality data from an ambient air monitoring network representing peak PM_{10} concentrations. The data should be quality-assured and stored in the EPA Air Quality System database. The EPA has reviewed air quality data for the area and has determined that the Pinehurst NAA attained the PM_{10} NAAQS [1] by the applicable attainment dates of December 31, 1994 for the City of Pinehurst and December 31, 2000 for the Pinehurst PM_{10} Expansion area, and they continue to attain the PM_{10} NAAQS. EPA's analysis is described below.

The 24-hour PM_{10} NAAQS is 150 μg/m^3. An area has attained this 24-hour standard when the average number of expected exceedances per year is less than or equal to one, when averaged over a three-year period (40 CFR 50.6). To make this determination, three consecutive years of complete ambient air quality data must be collected in accordance with Federal requirements (40 CFR part 58 including appendices).

A comprehensive air quality monitoring plan, meeting the requirements of 40 CFR part 58, was originally submitted by the IDEQ to the EPA on January 15, 1980, and approved by the EPA on July 28, 1982 (40 CFR 52.670), and most recently submitted in June 2017, with approval by the EPA on November 8, 2017. The monitoring plan describes the Idaho monitoring network throughout the state, which includes the Pinehurst Idaho monitor (AQS ID 16–079–0017–81102–3). In the LMP submittal, the IDEQ states that the nonattainment designation was based on data collected at the Pinehurst monitoring site. With the exception of three high wind exceptional events, a review of data shows that PM_{10} 3-year average expected exceedances recorded at this site have been less than or equal to the 24-hour PM_{10} NAAQS since 1994. In addition, the IDEQ states that the Pinehurst monitoring site is operated in compliance with the EPA monitoring guidelines set forth in 40 CFR part 58, Ambient Air Quality Surveillance.

Data from the Pinehurst monitoring site has been quality assured by the IDEQ and submitted to the EPA's Air Quality System (AQS), accessible through the EPA's AirData website at *https://www.epa.gov/outdoor-air-quality-data.* To show attainment for the 24-hour PM_{10} NAAQS the three-year design value must be less than or equal to 1.0 expected number of exceedances, as established in Appendix K to 40 CFR part 50. The Pinehurst monitoring site recorded exceedances in 2013 and 2015 and the IDEQ flagged these exceedances as being the result of exceptional events where unusually high winds entrained dust. Under the EPA's Exceptional Events Rule, the Agency may exclude data from a regulatory determination related to an exceedance or violation of the NAAQS if the IDEQ adequately demonstrates that an exceptional event caused the exceedance or violation. 40 CFR 50.1 and 50.14. For the reasons set forth in the IDEQ's Pinehurst PM_{10} 2013 High Wind Exceptional Event concurrence letter and analysis (March 2, 2017), the EPA excluded data showing an exceedance on September 15, 2013, in determining whether the Pinehurst NAA has attained the PM_{10} NAAQS. The concurrence letter explains how the IDEQ met the Exceptional Event Rule criteria to demonstrate that the September 15, 2013 exceedance qualifies as an exceptional event. Based on this demonstration, the IDEQ's submission demonstrates that the Pinehurst PM_{10} NAA's expected number of exceedances was 0.67 for 2013–15, which is below the 1.0 upper limit. The EPA confirmed that the area continues to be less than or equal to the 1.0 expected number exceedances with the 2014–16 value being 0.7. The EPA therefore finds that the area was not violating the PM_{10} NAAQS.

B. Does the Pinehurst PM_{10} NAA have a fully approved SIP under section 110(k) of the CAA?

To qualify for redesignation, the SIP for an area must be fully approved under section 110(k) of the CAA, and must satisfy all requirements that apply to the area. As discussed in Section II.B. above, the IDEQ submitted a moderate PM_{10} SIP for the Pinehurst PM_{10} NAA on April 14, 1992. The EPA took final action to conditionally approve the IDEQ's moderate PM_{10} SIP on August

[1] Because the annual PM_{10} standard was revoked effective December 18, 2006, see 71 FR 61144 (October 17, 2006), this notice discusses only attainment of the 24-hour PM_{10} standard.''

25, 1994 (59 FR 43745) for the City of Pinehurst and to conditionally approve the IDEQ's moderate PM_{10} SIP on May 26, 1995 (60 FR 27891) for the Pinehurst PM_{10} Expansion area. These conditional approvals required submission of contingency measures. Accordingly, the IDEQ submitted the contingency plan applicable to the entire Pinehurst PM_{10} NAA as required by the conditional approvals on July 13, 1995. With the EPA's approval on October 2, 2014 (79 FR 59435), the Pinehurst PM_{10} NAA satisfied all requirements that apply to the area and thus the area has a fully approved nonattainment area SIP under section 110(k) of the CAA.

C. Has the IDEQ met all applicable requirements under section 110 and Part D of the CAA?

Section 107(d)(3)(E) of the CAA requires that a state containing an NAA meet all applicable requirements under section 110 and Part D of the CAA for the area to be redesignated to attainment. The EPA interprets this to mean that the IDEQ must meet all requirements that applied to the area prior to, and at the time of, the submission of a complete redesignation request. The following is a summary of how Idaho meets these requirements.

1. Clean Air Act Section 110 Requirements

Section 110(a)(2) of the CAA contains general requirements for nonattainment plans. These requirements include, but are not limited to: Submittal of a SIP that has been adopted by the IDEQ after reasonable notice and public hearing; provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality; implementation of a permit program; provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring and reporting; provisions for modeling; and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements (57 FR 13498, April 16, 1992). The EPA's approval of Idaho's SIP for attainment and maintenance of national standards can be found at 40 CFR 52.673. For purposes of redesignation of the Pinehurst PM_{10} NAA, the EPA has reviewed the IDEQ SIP and finds that the IDEQ has satisfied all applicable requirements under CAA section 110(a)(2) for the PM_{10} NAAQS.

2. Part D Requirements

Part D of the CAA contains general requirements applicable to all areas designated nonattainment. The general requirements are followed by a series of subparts specific to each pollutant. All PM_{10} nonattainment areas must meet the general provisions of Subpart 1 and the specific PM_{10} provisions in Subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Pinehurst PM_{10} NAA.

2a. Part D, Section 172(c)(2)—Reasonable Further Progress

Section 172(c) contains general requirements for NAA plans. A thorough discussion of these requirements may be found in the General Preamble (57 FR 13538, April 16, 1992). CAA section 172(c)(2) requires nonattainment plans to provide for reasonable further progress (RFP). Section 171(1) of the CAA defines RFP as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part (part D of title I) or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' The requirements for reasonable further progress, identification of certain emissions increases and other measures needed for attainment were satisfied with the approved Pinehurst PM_{10} NAA SIP (59 FR 43745 and 60 FR 27891). In its August 23, 2001 action (66 FR 44304), the EPA determined that the Pinehurst NAA attained the 24-hour PM_{10} NAAQS by the December 31, 1994 and December 31, 2000, attainment dates. Therefore, the EPA believes no further showing of RFP or quantitative milestones is necessary.

2b. Part D, Section 172(c)(3)—Emissions Inventory

For redesignation, section 172(c)(3) of CAA requires a comprehensive, accurate, current inventory of actual emissions from all sources in the Pinehurst PM_{10} NAA. The IDEQ included an emissions inventory for the Pinehurst area for the year 2013 in the September 29, 2017 submittal. The IDEQ used 2013 as a base year for the emissions inventory, including data from the 2014 periodic emission inventory (PEI), as the IDEQ determined that it is representative of emissions during the five-year period associated with air quality data demonstrating attainment. The IDEQ has demonstrated that the 2013 base year emissions inventory is current, accurate, and comprehensive, and therefore meets the requirements of section 172(c)(3) of the CAA.

2c. Part D, Section 172(c)(5)—New Source Review (NSR)

The CAA requires all nonattainment areas to meet several requirements regarding NSR. The IDEQ must have an approved major NSR program that meets the requirements of CAA section 172(c)(5). The Part D NSR rules for PM_{10} nonattainment areas in Idaho were approved by the EPA on July 23, 1993 (58 FR 39445) and amended on January 16, 2003 (68 FR 2217). Revisions to Idaho's NSR rules were most recently approved by the EPA on November 26, 2010 (75 FR 72719). Within the boundaries of the Pinehurst PM_{10} NAA, the requirements of the Part D NSR program will be replaced by the IDEQ's Prevention of Significant Deterioration (PSD) program requirements upon the effective date of redesignation. The currently approved NSR provisions meet the requirements of 172(c)(5) and therefore this condition for proposed redesignation is satisfied.

2d. Part D, Section 172(c)(7)—Compliance With CAA Section 110(a)(2): Air Quality Monitoring Requirements

Once an area is redesignated, the IDEQ must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. On January 15, 1980, the IDEQ submitted a comprehensive air quality monitoring plan, intended to meet the requirements of 40 CFR part 58. The EPA approved the plan on July 28, 1982 (40 CFR 52.760). This monitoring plan has been updated, with the most recent submittal in June 2017, with approval by the EPA on November 8, 2017. The monitoring plan describes the PM_{10} monitoring network throughout Idaho, including the Pinehurst monitoring site. The Pinehurst monitoring site is operated in compliance with the EPA monitoring guidelines set forth in 40 CFR part 58, Ambient Air Quality Surveillance. In addition, the Pinehurst PM_{10} NAA LMP submittal provides a commitment to continue operation of the PM_{10} monitoring network in accordance with 40 CFR part 58, and to annually verify continued attainment of the 24-hour PM_{10} NAAQS in Pinehurst through the Annual Ambient Air Monitoring Network Plan. Any changes to the monitoring site will be made via the Annual Ambient Air Monitoring Network Plan or formal communication. The currently approved monitoring plan

and associated program meet the requirements of 172(c)(7) and therefore this condition for proposed redesignation is satisfied.

2e. Part D, Section 172(c)(9)—Contingency Measures

The CAA requires that contingency measures take effect if an area fails to meet RFP requirements or fails to attain the NAAQS by the applicable attainment date. On August 23, 2001, the EPA determined that the Pinehurst NAA attained the PM_{10} NAAQS by the applicable attainment dates of December 31, 1994 and December 31, 2000 (66 FR 44304). Therefore, attainment planning contingency measures are no longer required under section 172(c)(9) of the CAA. However, maintenance plan contingency provisions are required for maintenance plans under section 175(a)(d). Please see section IV.I. for a description of Idaho's maintenance plan contingency provisions.

2f. Part D, Section 189(a), (c) and (e)—Additional Provisions for Particulate Matter Nonattainment Areas

CAA sections 189(a), (c) and (e) apply to moderate PM_{10} nonattainment areas. Any of these requirements which were applicable and due prior to the submission of the redesignation request must be fully approved into the SIP before redesignating the area to attainment. With respect to the Pinehurst NAA, these requirements include:

(a) Provisions to assure that reasonably available control measures were implemented by December 31, 1994 and December 31, 2000 (section 189(a)(1)(C));

(b) Either a demonstration that the plan provided for attainment as expeditiously as practicable but not later than December 31, 1994 and December 31, 2000, or a demonstration that attainment by that date was impracticable (section 189(a)(1)(B));

(c) Quantitative milestones which were achieved every three years and which demonstrate RFP toward attainment by December 31, 1994 and December 31, 2000 (section 189(c)(1)); and

(d) Provisions to assure that the control requirements applicable to major stationary sources of PM_{10} also apply to major stationary sources of PM_{10} precursors except where the Administrator determined that such sources do not contribute significantly to PM_{10} levels which exceed the NAAQS in the area (section 189(e)).

Provisions for reasonably available control measures, attainment demonstration, and RFP milestones were conditionally approved into the Pinehurst PM_{10} SIP on August 25, 1994 (59 FR 43745) and on May 26, 1995 (60 FR 27891). The EPA's approval of the July 13, 1995 contingency plan on October 2, 2014 (79 FR 59435) fully approved these required elements The EPA approved changes to Idaho's major NSR rules on July 17, 2012 (77 FR 41916) and November 26, 2010 (75 FR 72719). The IDEQ's major nonattainment NSR rules and PSD rules include control requirements that apply to major stationary sources of PM_{10} and PM_{10} precursors in nonattainment and attainment/unclassifiable areas. Therefore, the EPA proposes that the requirements of 189(a)(c) and (e) for this proposed redesignation is satisfied.

D. Has the IDEQ demonstrated that the air quality improvement is due to permanent and enforceable reductions?

Section 107(d)(3)(E)(iii) of the CAA provides that a NAA may not be redesignated unless the EPA determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP. Permanent and enforceable control measures in the Pinehurst PM_{10} SIP include controls primarily focused on residential wood combustion. The Pinehurst PM_{10} NAA LMP submittal describes its woodstove changeout program which resulted in 76 stove replacements by 1994 and an additional 87 replacements between 1996 and 2015. According to a recent survey in the community these 163 changeouts account for 60% of the uncertified devices in the area. Between 2015–17, 40 additional woodstoves have been changed out to cleaner burning devices under this program; 31 to EPA certified, 1 to propane, and 8 to natural gas. Additional permanent controls in the area include the weatherization of 30 homes in the mid-1990s which provided for reductions in emissions by reducing home heating requirements which in turn reduce the need for additional fuel and the associated emissions.

E. Does the area have a fully approved maintenance plan pursuant to section 175A of the act?

In this action, we are proposing to approve the LMP in accordance with the principles outlined in the LMP Option Memo. Upon final approval, the Pinehurst NAA will have a fully approved maintenance plan.

F. Has the IDEQ demonstrated that the Pinehurst NAA qualifies for the LMP Option?

The LMP Option Memo outlines the requirements for an area to qualify for a LMP. First, the area should be attaining the NAAQS. On August 23, 2001, the EPA determined that the Pinehurst NAA attained the PM_{10} NAAQS by December 31, 1994 and December 31, 2000 (66 FR 44304). The EPA has reviewed recent ambient air quality data for the 24-hour PM_{10} NAAQS, and has determined that the Pinehurst NAA continues to attain the 24-hour PM_{10} NAAQS. Please see section IV.A. above for a detailed discussion.

Second, the average design value (ADV) for the past five years of monitoring data must be at or below the critical design value (CDV). The CDV is a margin of safety value at which an area has been determined to have a one in ten probability of exceeding the NAAQS. The LMP Option Memo provides two methods to review monitoring data for the purpose of determining qualification for an LMP. The first method is a comparison of a site's ADV with the CDV of 98 $\mu g/m^3$ for the 24-hour PM_{10} NAAQS. A second method that applies to the 24-hour PM_{10} NAAQS is the calculation of a site-specific CDV and a comparison of the site-specific CDV with the ADV for the past five years of monitoring data. The IDEQ's LMP submittal provides a comparison of five-year ADVs compared to the 24-hour and annual CDVs, as described in the first method for review of monitoring data to determine qualification for a LMP. The IDEQ's analysis demonstrates that the Pinehurst NAA has met the LMP design value criteria using the tabular look up method which showed the area to be meeting the CDV with a five-year design value of 83 $\mu g/m^3$. The EPA has reviewed the calculations and concurs with the IDEQ's findings that the area has a five-year design value of 83 $\mu g/m^3$ for both 2011–2015 and the most recently available five year DV of 2012–2016.[2] Therefore, the EPA finds that the Pinehurst NAA meets the design value criteria outlined in the LMP Option Memo.

Third, the area must meet the motor vehicle regional emissions analysis test described in attachment B of the LMP Option Memo. Using the methodology outlined in the LMP Option Memo, the IDEQ has submitted an analysis of whether increased emissions from on-

[2] This LMP design value is dependent upon data being excluded from a high wind exceptional event also proposed for approval in this notice.

road mobile sources would increase PM_{10} concentrations in the Pinehurst NAA to levels that would threaten the assumption of maintenance that underlies the LMP policy. Using this methodology, the IDEQ has determined that the Pinehurst NAA passes the motor vehicle regional emissions analysis test. The motor vehicle regional emissions analysis test results of 83.19 μg/m³ and 83.36 μg/m³ when adjusted for growth are below the 98 μg/m³ annual standard and meet the margin of safety requirements. The EPA has reviewed the calculations in the IDEQ's Pinehurst NAA LMP submittal in Section 3.1 and concurs with this conclusion.

The LMP Option Memo requires all controls relied on to demonstrate attainment remain in place for a NAA to qualify for a LMP. The LMP developed by IDEQ will continue to implement the control measures relied upon to demonstrate attainment. Therefore, EPA proposes to find that the Pinehurst PM_{10} NAA meets the qualification criteria set forth in the LMP Option Memo, and therefore qualifies for a LMP.

The LMP Option Memo also indicates that once a state submits a LMP and it is in effect, the IDEQ will be expected to determine, on an annual basis, that the LMP criteria are still being met. If the IDEQ determines that the LMP criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify for the LMP. One possible approach the IDEQ could take is to implement contingency measures. Section IV.I. provides a description of contingency provisions submitted as part of the Pinehurst NAA LMP submittal. The EPA believes the contingency provisions submitted by the IDEQ meet the requirements of CAA section 175A as outlined in the LMP Option memo.

G. Does the IDEQ have an approved attainment emissions inventory which can be used to demonstrate attainment of the NAAQS?

Pursuant to the LMP Option Memo, the IDEQ's approved attainment plan should include an emissions inventory which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same five-year period associated with air quality data used to determine whether the area meets the applicability requirements of the LMP Option. The IDEQ should review its inventory every three years to ensure emissions growth is incorporated in the inventory if necessary.

The IDEQ's Pinehurst PM_{10} NAA LMP submittal includes an emissions inventory, with a base year of 2013. After reviewing the 2013 emissions inventory and determining that it is current, accurate and complete, as well as reviewing monitoring data, the EPA has determined that the 2013 emissions inventory is representative of the attainment year inventory because the NAAQS was not violated during 2013. In addition, the year 2013 is representative of the level of emissions during the time period used to calculate the average design value because 2013 is one of the years during the five-year period used to calculate the design value. The submittal meets EPA guidance, as described above, for purposes of an attainment emissions inventory.

H. Does the LMP include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR part 58?

A PM_{10} monitoring network was established in the Pinehurst area in 1985. The monitoring network was developed and has been maintained in accordance with Federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 10. The EPA most recently approved the IDEQ's air monitoring plan on November 8, 2017. In the Pinehurst PM_{10} NAA LMP submittal, the IDEQ commits to continue to operate its monitoring network to meet the EPA requirements at 40 CFR part 58 and identify any issues or adjustments via the Annual Ambient Air Monitoring Network Plan or formal communication. The submittal contains an assurance of continued operation of the PM_{10} monitoring network. The submittal meets EPA LMP submission requirements with respect to maintenance of a monitoring network.

I. Does the plan meet the clean air act requirements for contingency provisions?

The CAA section 175A states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the NAAQS which may occur after redesignation of the area to attainment. As explained in the LMP Option Memo and the Calcagni Memo, these contingency provisions are considered to be an enforceable part of the federally-approved SIP. The maintenance plan should clearly identify the provisions to be adopted, a schedule and procedures for adoption and implementation, and a specific time limit for action by the IDEQ. The maintenance plan should identify the events that would ''trigger'' the adoption and implementation of a contingency provision, the contingency provision that would be adopted and implemented, and the schedule indicating the time frame by which the IDEQ would adopt and implement the provision. The LMP Option Memo and Calcagni Memo state that the EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, it must require that the IDEQ will implement all measures contained in the CAA part D nonattainment plan for the area prior to redesignation.

In the Pinehurst PM_{10} NAA LMP submittal, the IDEQ has included maintenance plan contingency provisions to ensure the area continues to meet the PM_{10} NAAQS. The submitted LMP includes the Annual Network Plan review process as the triggering mechanism for identifying if the Pinehurst area violates the PM_{10} NAAQS. If triggered the LMP identifies a list of specific control measures as listed in section 3.5.2 of their submittal to reduce emissions, including potential measures that would control emissions associated with residential wood combustion, controlling road-dust related emissions, and refuse burning for evaluation and a process for selection. Therefore, the EPA believes the contingency provisions submitted in the Pinehurst PM_{10} NAA LMP are adequate to meet CAA section 175A requirements.

J. How is conformity treated under a limited maintenance plan? [3]

The transportation conformity rule (40 CFR 51. 390 and 40 CFR 93.100–129) and the general conformity rule (40 CFR 93.150–165) apply to nonattainment areas and maintenance areas operating under maintenance plans. Under either conformity rule one means of demonstrating conformity of Federal actions is to indicate that expected emissions from planned actions are consistent with the emissions budget for the area. Emissions budgets in LMP areas may be treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that an area satisfying the LMP criteria will experience so much growth during that period of time such that a violation of the PM_{10} NAAQS would result. While this policy does not exempt an area from the need to affirm conformity, it does allow the area to demonstrate

[3] *See* ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' memo from Director Lydia Wegman to Regional Offices dated August 9, 2001.

conformity without undertaking certain requirements of these rules. For transportation conformity purposes, EPA would be concluding that emissions in these areas need not be capped for the maintenance period, and, therefore, a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in § 93.158(a)(5)(i)(A) of the rule, for the same reasons that the budgets are essentially considered to be unlimited.

The Pinehurst area is an isolated rural area [4]. Transportation conformity determinations in isolated rural nonattainment and maintenance areas are required only when a new non-exempt Federal Highway Administration (FHWA)/State Transportation Agency (STA) project needs funding or approval. Thus, in the event that a conformity analysis is required, the state agency responsible for conducting transportation conformity must document and ensure that:

(a) The interagency consultation procedures meet the applicable requirements of 40 CFR 93.105(c)(1)(vi);

(b) Conformity is determined as specified in 40 CFR 93.109(g) for isolated rural areas.

The minimum criteria by which the EPA determines whether a SIP is adequate for conformity purposes are specified at 40 CFR 93.118(e)(4). The EPA's analysis of how the LMP satisfies these criteria for transportation conformity is found in the docket. The EPA proposes to find adequate Idaho's LMP for Pinehurst for transportation conformity purposes.

Upon final approval of the Pinehurst PM_{10} NAA LMP, the Pinehurst area will be exempt from performing a regional emissions analysis, but must meet project-level conformity analysis as well as the transportation conformity criteria located in 40 CFR 93.109(g) for isolated rural areas.

V. 2013 PM_{10} High Wind Exceptional Event

The CAA allows for the exclusion of air quality monitoring data from design value calculations when there are exceedances caused by events, such as wildfires or high wind events, that meet the criteria for an exceptional event identified in the EPA's implementing regulations, the Exceptional Events Rule at 40 CFR 50.1, 50.14 and 51.930. In 2013 emissions from a high wind event entrained dust and impacted PM_{10} concentrations recorded at the Pinehurst monitor. For purposes of this Pinehurst PM_{10} redesignation and LMP, the IDEQ submitted an exceptional event demonstration to request exclusion of the data. The EPA evaluated the IDEQ's exceptional event demonstration for the flagged values of the 24-hour PM_{10} NAAQS for September 15, 2013, at the monitor in Pinehurst, Idaho, with respect to the requirements of the EPA's Exceptional Events Rule (40 CFR 50.14) and determined that IDEQ met the rule requirements. On March 2, 2017, the EPA concurred with the IDEQ's request to exclude event-influenced data for September 15, 2013. As such, the event-influenced data have been removed from the data set used for regulatory purposes and, for this proposed action, the EPA relies on the calculated values that exclude the event-influenced data. The EPA now proposes approval of the IDEQ's request to exclude data from September 15, 2013, in determining PM_{10} attainment as a high wind exceptional event. For further information, refer to the IDEQ's Exceptional Event demonstration package and the EPA's concurrence and analysis located in the docket for this regulatory action.

VI. West Silver Valley 2012 Annual $PM_{2.5}$ Emission Inventory

A. Requirements for Emissions Inventories

Section 172(c)(3) of the CAA requires a state with an area designated as nonattainment to submit a ''comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant'' for the NAA. By requiring an accounting of actual emissions from all sources of the relevant pollutants in the area, this section provides for the base year inventory to include all emissions from sources in the NAA that contribute to the formation of a particular NAAQS pollutant. For the 2012 annual $PM_{2.5}$ NAAQS, this includes direct $PM_{2.5}$ (condensable and filterable) as well as the precursors to the formation of secondary $PM_{2.5}$: Nitrogen oxides (NO_X), sulfur dioxide (SO_2), volatile organic compounds (VOCs), and ammonia (NH_3) (40 CFR 51.1008; 81 FR 58028). Inclusion of $PM_{2.5}$ and all of the $PM_{2.5}$ precursors in the emissions inventory is necessary in order to inform other aspects of the attainment plan development process, if such a plan is required. The SIP submission should include documentation explaining how the state calculated the emissions data for the base year inventory. The specific $PM_{2.5}$ emissions inventory requirements are set forth in 40 CFR 51.1008. The EPA has provided additional guidance for developing $PM_{2.5}$ emissions inventories in *Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze.*

B. West Silver Valley $PM_{2.5}$ Base Year Emissions Inventory

The IDEQ developed a 2013 base year emissions inventory for the WSV annual $PM_{2.5}$ NAA. The base year emissions inventory includes data from 2013 and 2014 and in large part was extracted from the 2014 periodic emissions inventory (PEI) which is used to populate the EPA's National Emissions Inventory (NEI). The 2013 base year inventory is one of the three years used to designate the area as nonattainment. This base year inventory presents direct $PM_{2.5}$ emissions (condensable and filterable) and emissions of all $PM_{2.5}$ precursors (NO_X, VOCs, NH_3, and SO_2) to meet the emissions inventory requirements of CAA section 172(c). The IDEQ provided inventories from all sources in the WSV NAA, including nonpoint/area sources, point sources, nonroad sources, and onroad sources. The inventory is based on annual emissions in tons per year. The top source sectors of direct $PM_{2.5}$ in the WSV are prescribed burns (88.91 tons/year (tpy)), residential wood combustion (52.61 tpy), onroad (17.25 tpy), unpaved roads (13.61 tpy), and nonroad (7.24 tpy) emissions.

The largest source category of direct $PM_{2.5}$ emissions in the WSV was from prescribed burning, accounting for 44.9% of direct $PM_{2.5}$. These emissions came from primarily large and small scale permitted burners who burn forest waste mostly during the fall season. Emissions were estimated by extracting data, including fuel loading-moisture-acres burned-emissions factors, from prescribed burn databases maintained by the Idaho-Montana Air Shed Group and Idaho Department of Lands, and the Forest Practices Act Compliance database. The second largest source category is residential wood combustion (RWC). The emissions come from various residential devices designed to heat homes through burning wood whether in solid or pellet form.

[4] As defined in 40 CFR 93.101, Isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations. Isolated rural areas do not have Federally required metropolitan transportation plans (MTPs) or transportation improvement programs (TIPs) and do not have projects that are part of the emissions analysis of any metropolitan planning organization's (MPO's) MTP or TIP. Projects in such areas are instead included in statewide transportation improvement programs.

Emissions from RWC, on an annual basis, account for about 26.6% of the base year direct $PM_{2.5}$ emissions. These emissions were estimated using the EPA's Microsoft Access RWC tool v2.1 and estimates were adjusted with information from a local woodstove survey along with information from the ongoing woodstove changeout program in the area. The next three largest source categories, onroad emissions, unpaved roads emission, and nonroad emissions accounted for 30.9% of the direct $PM_{2.5}$ in the base year emissions inventory. The onroad emissions source category includes emissions from motor vehicles and road dust from paved roads. The nonroad emissions source category includes winter and summer recreation vehicles and emissions generated from logging, construction and mining, and other minor nonroad sources. Onroad and nonroad emissions were calculated using MOVES2014.

C. EPA's Evaluation

The EPA has reviewed the results, procedures, and methodologies for the WSV Annual $PM_{2.5}$ NAA base year emissions inventory. The EPA has determined that the 2013 base year inventory for the WSV is based on the most current and accurate information available to the IDEQ at the time the inventories were being developed. The inventories comprehensively address all source categories in the WSV NAA, actual emissions are provided, and appropriate procedures were used to develop the inventories. We are proposing to approve the 2013 base year emissions inventory for the WSV NAA as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(a)(1).

VII. Proposed Action

The EPA is proposing to approve the Pinehurst PM_{10} NAA LMP submitted by the IDEQ for the Pinehurst NAA and concurrently redesignate the area to attainment for the PM_{10} NAAQS. The EPA has reviewed air quality data for the area and determined that the Pinehurst NAA attained the PM_{10} NAAQS by the required attainment date, and that air monitoring data continue to show attainment. The EPA is proposing to approve that the Pinehurst PM_{10} NAA LMP meets all of the requirements of an LMP and that the Pinehurst NAA meets all of the requirements of redesignation as described in this action.

The EPA is also taking action to propose approval of the September 15, 2013, high wind exceptional event that impacted PM_{10} values in the area.

The EPA is also taking action to propose approval of the WSV Annual $PM_{2.5}$ base year Emissions Inventory as meeting CAA 172(c)(3) requirements.

VIII. Statutory and Executive Order Reviews

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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: April 30, 2018.

Chris Hladick,

Regional Administrator, Region 10.

[FR Doc. 2018–09992 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 13–39; FCC 18–45]

Rural Call Completion

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we seek comment on rules to implement the recently enacted Improving Rural Call Quality and Reliability Act (''RCC Act''), which directs us to establish registration requirements and service quality standards for ''intermediate providers''—entities that transmit calls without serving as the originating or terminating provider. By giving us clear authority to shine a light on intermediate providers and hold them accountable for their performance, the RCC Act provides an important additional tool we can use in our work to promote call completion to all Americans. We anticipate that the rules we will adopt to implement the RCC Act's direction to regulate intermediate providers will complement our covered provider monitoring rule by ensuring that the participants in the call path share in the responsibility to ensure that

calls to rural areas are completed. We also seek comment on sunsetting the recording and retention rules established in the 2013 *RCC Order* upon implementation of the RCC Act.

DATES: Comments are due on or before June 4, 2018, and reply comments are due on or before June 19, 2018. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 10, 2018.

ADDRESSES: You may submit comments, identified by WC Docket No. 13–39, by any of the following methods:

▪ *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.

▪ *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Zach Ross, at (202) 418–1033, or *zachary.ross@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Further Notice of Proposed Rulemaking (*FNPRM*) in WC Docket No. 13–39, adopted and released on April 17, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is available on the Commission's website at *https://www.fcc.gov/document/fcc-takes-new-steps-improve-rural-call-completion-0.*

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998), *http://www.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf.*

▪ *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*

▪ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.

▪ *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

I. Synopsis

A. Certain Intermediate Providers Must Register With the Commission

1. We propose and seek comment on rules to implement the registry provisions of the RCC Act. New section 262(c) of the Act mandates that, when promulgating registry rules, the Commission ''(A) ensure the integrity of the transmission of covered voice communications to all customers in the United States; and (B) prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.'' The RCC Act also requires the Commission to make the intermediate provider registry publicly available on the Commission's website. The statute does not otherwise specify requirements for the registry or the registration rules to be imposed on intermediate providers.

2. We propose to implement new section 262(a)(1) by requiring that any intermediate provider register with the Commission if that provider offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and charges any rate to any other entity (including an affiliated entity) for the transmission.

3. We propose that this registration be filed via a portal on the Commission's website, be made publicly available on that website, and include the following information: (1) The intermediate provider's business name(s) and primary address; (2) the name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process; (3) all business names that the intermediate provider has used in the past; (4) the state(s) in which the intermediate provider

provides service; and (5) the name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues. We seek comment on this proposal and on any other types of information that intermediate providers should be required to include in their registrations.

4. The first four categories of information listed above are similar to those required under the Commission's existing registration requirement for telecommunications carriers and interconnected VoIP providers, and we believe that they are appropriate for inclusion here. We also propose that intermediate provider registrations specifically include a point-of-contact for addressing rural call completion issues in light of record evidence that access to such information would help facilitate communication and cooperation among service providers to efficiently resolve rural call completion issues as expeditiously as possible. We believe collection and publication of the foregoing information will not constitute a significant burden for affected providers, and will facilitate compliance by creating a publicly-available database of registered intermediate providers, along with the relevant contact information for each provider. We seek comment on this view. Consistent with our existing registration requirements, we also propose to require intermediate providers to update their registration information within one week of any change. We seek comment on this proposal and any alternatives thereto. We also seek comment on the benefits and burdens (including specific costs) of the proposed registration requirements, especially regarding small intermediate providers, and whether any accommodations for small providers are necessary.

5. Finally, we propose to adopt a 30-day registration deadline for intermediate providers. The registration period would commence upon approval by the Office of Management and Budget of the final rules establishing the registry. We note that our filing instructions for Form 499–A indicate that new filers, including telecommunications carriers and interconnected VoIP providers, are to register with the Commission ''[u]pon beginning to provide service, but no later than 30 days after beginning to provide service.'' Consistent with this requirement, we seek comment on whether a 30-day registration period would be appropriate for intermediate providers subject to our registration rules. We seek comment on this proposal, and on any alternative timeframes for requiring intermediate providers to register with the Commission.

6. We believe that our proposals, including making the registrations publicly available on the Commission's website, are consistent with Congress' intent to ''increase the reliability of intermediate providers by bringing transparency'' to the intermediate provider market. We also believe that the proposals, including the requirement to provide point-of-contact information for rural call completion complaints and to make such information publicly available, are consistent with Congress' mandate that our implementing rules ensure the integrity of the transmission of covered voice communications to all customers in the country and prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications. In making this proposal, we clarify that our proposed registration requirements are not intended to alter our current processes for handling rural call completion complaints submitted by rural carriers or consumers. At the same time, we believe that requiring the submission of this information would be minimally burdensome on intermediate providers. We seek comment on this preliminary analysis.

7. We also seek comment on any alternative proposals for structuring and managing the intermediate provider registry. In addition, we specifically seek comment on the benefits and burdens to smaller providers of our proposals and any potential alternatives.

8. *Intermediate Providers That Must Register.* New section 262(a) of the Act imposes registration and service quality requirements only on any intermediate provider ''that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission.'' We therefore propose to apply the registration and service quality requirements we adopt to any intermediate provider so long as it fits within the criteria established by section 262(a). We seek comment on this proposal, on any potential alternatives, and on any other guidance we should provide in implementing section 262(a).

9. We seek comment on the difference between the universe of intermediate providers as defined in section 262(i)(3) and the universe of intermediate providers encompassed by section 262(a). Section 262(i)(3) offers a general definition of intermediate providers. Section 262(a) appears to limit its application to intermediate providers, as defined in 262(i)(3), that meet additional limiting factors. One of these factors is that section 262(a) applies only to intermediate providers that charge a rate to other entities, including their affiliates, for transmitting covered voice communications. Are there any other differences between the intermediate providers encompassed by sections 262(i)(3) and 262(a)? Does the phrase ''that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another'' narrow the scope of intermediate providers captured by section 262(a) compared to section 262(i)(3)? We seek comment on this issue and any others that commenters believe are relevant in interpreting and implementing section 262(a).

10. With respect to the scope of intermediate providers subject to the registration requirements in particular, we note that section 262(b) states that ''[a] covered provider may not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered under subsection (a)(1).'' We believe that this provision is best understood to mean that intermediate providers ''that offer[] or hold[] [themselves] out as offering the capability to transmit covered voice communications from one destination to another and that charge[] any rate to any other entity (including an affiliate) for the transmission'' must register with the Commission under section 262(a)(1), and that any intermediate provider that seeks to be used by a covered provider must also register with the Commission. We seek comment on this view and on any alternative readings that give meaning to the text of both sections 262(b) and 262(a)(1).

B. Covered Providers May Not Use Unregistered Intermediate Providers

11. We seek comment on how to interpret and implement the prohibition on covered providers' use of unregistered intermediate providers in section 262(b). In particular, we seek comment on the definition of ''use'' in section 262(b). We propose that the word ''use'' in this context be understood to mean that a covered provider may not rely on any unregistered intermediate providers in the path of a given call. In making this proposal, we note that the definition of ''intermediate provider'' contained in

section 262(i) broadly refers to providers at all points in the call chain, excluding covered providers who originate or terminate a given call, and that section 262(a) requires any of these entities that offer to transmit covered voice communications for a rate to register with the Commission and meet our quality of service standards. We seek comment on this proposal. Alternatively, should ''use'' be interpreted to mean that the covered provider must ensure only that the first intermediate provider in the call path is registered? Are there other possible interpretations of section 262(b)? For each potential interpretation, we seek comment on the costs and benefits (including to smaller providers), implementation issues, and the extent to which the interpretation reflects Congress' intent.

12. We note that the relevant Senate Commerce Committee Report states that it is ''not the intent of the Committee that this definition be interpreted to cover entities that only incidentally transmit voice traffic, like internet Service Providers alongside other packet data, without a specific business arrangement to carry, route, or transmit that voice traffic.'' Should we supplement our proposed definition of ''intermediate provider'' to reflect this intent, and if so, how? For example, should certain types of entities be exempt from the definition of ''intermediate provider''?

13. We further propose that covered providers must be responsible for knowing the identity of all intermediate providers in a call path, and we seek comment on this proposal. We believe this proposed requirement appropriately builds on and flows from our proposed interpretation of ''use'' in the RCC Act. The ATIS RCC Handbook states that if ''[service providers] are aware of which downstream [service providers] are involved in handling their traffic, they can perform due diligence and possibly better manage call completion issues.'' Moreover, given the section 217 liability we described above (and related monitoring rule obligation we impose on covered providers to be responsible for the entire intermediate provider chain), we believe that allowing covered providers to not know the identities of their intermediates amounts to allowing willful ignorance: *i.e.,* it would allow covered providers to circumvent their duties by employing unknown or anonymous intermediate providers in a call path. We seek comment on this proposal and analysis. If we adopt our proposed definition of ''use,'' how could covered providers comply with the RCC Act and not possess this information? We also seek comment on HD Tandem's assertion that ''[t]he possibility of unlimited and unknown intermediate carriers in the call path makes it nearly impossible, as a practical matter, to enforce the Commission's RCC rules.''

14. We further propose to require covered providers to maintain, and furnish upon request to the Commission or state authorities as appropriate, the identities of any or all intermediate providers in their respective call paths. We seek comment on this proposal and on any alternative approaches, particularly as they relate to the RCC Act. We believe that making this information available upon request to the Commission and state authorities would facilitate our and state authorities' understanding of rural call completion issues and how to combat them. We further believe that this approach will help maximize the value of the registry for promoting rural call completion, and ensure compliance with section 262(b). We seek comment on this analysis.

15. We also seek comment generally on how best to enforce the requirements of section 262(b). For example, should we require covered providers to use the intermediate provider registry that we establish to confirm the registration of a potential intermediate provider before purchasing service from that provider? Further, we seek comment on whether we should adopt any exceptions to the prohibition on using unregistered intermediate providers and whether any such exceptions would be consistent with the RCC Act. What should the consequences be if a covered provider uses an unregistered intermediate provider? If an intermediate provider loses its registration, how long should a covered provider have to remove that intermediate provider from its route table? What if that newly deregistered intermediate provider is the only provider to the target rural carrier? As part of this inquiry, we seek comment on the best approach to adopting any exceptions, including as to whether we should adopt express exceptions to our rules, or delineate circumstances under which affected entities could seek a waiver from the Commission.

16. Once we have adopted rules to implement the RCC Act registration requirement, how long should covered providers have to ensure that they comply with the requirement to use only registered intermediate providers? As discussed above, we propose to adopt a 30-day registration deadline for intermediate providers. Should covered providers have an additional 30 days—after the 30-day registration deadline for intermediate providers—in which to ensure that they comply with the requirement to use only registered intermediate providers? Is that an adequate period of time for covered providers to make any contractual and/or traffic routing adjustments needed to comply with the RCC Act and the Commission's implementing regulations? If not, what would be an appropriate period of time?

C. Service Quality Standards for Intermediate Providers

17. The RCC Act also requires intermediate providers that offer, or hold themselves out as offering, the capability to transmit covered voice communications from one destination to another and that charge any rate to any other entity (including an affiliated entity) to comply with ''service quality standards'' to be established by the Commission. Under new section 262(d) of the Act, in promulgating such standards, the Commission must ''ensure the integrity of the transmission of covered voice communications to all customers in the United States'' and ''prevent unjust or unreasonable discrimination among areas of the United States in the delivery of covered voice communications.'' While the RCC Act does not define the term ''service quality standards,'' the Senate Commerce Committee Report states that such standards ''could include the adoption of specific call completion metrics or the more general adoption of duties to complete calls analogous to those that already apply to covered providers under prior Commission rules and orders.''

18. We seek comment generally on possible frameworks to implement the service quality standards provisions of the RCC Act. We seek to establish service quality standards for intermediate providers that will ensure rural call completion but that are also minimally burdensome, and we seek comment on how best to do so. We believe that proposals that rely on or are consistent with industry best practices to develop service quality standards will be less burdensome on intermediate providers than other potential approaches, and we seek comment on this view. For each of the proposals below and each potential alternative proposed by commenters, we seek comment on its effectiveness in ensuring call completion to rural areas (including its effectiveness relative to other proposals), its costs and benefits, and its impact on smaller intermediate providers.

1. Proposed Service Quality Standards

19. *Industry Best Practices.* First, we propose to require intermediate providers subject to section 262(a) to take reasonable steps to abide by certain industry best practices for rural call completion. Specifically, we propose to require intermediate providers to take reasonable steps to: (1) Prevent ''call looping,'' a practice in which the intermediate provider hands off a call for completion to a provider that has previously handed off the call; (2) ''crank back'' or release a call back to the originating carrier, rather than simply dropping the call, upon failure to find a route; and (3) not process calls so as to ''terminate and re-originate'' them (*e.g.,* fraudulently using ''SIM boxes'' or unlimited VoIP plans to re-originate large amounts of traffic in an attempt to shift the cost of terminating these calls from the originating provider to the wireless or wireline provider). These best practices, developed by ATIS, are supported by both covered providers and rural carriers. We seek comment on our proposal, and how these rules should be drafted, including the specific language and terminology that should be used.

20. We also recognize that another industry best practice for rural call completion is to prohibit intermediate providers from manipulating signaling information. Section 64.1601(a)(2) of the Commission's rules already requires intermediate providers within an interstate or intrastate call path that originate and/or terminate on the PSTN to pass unaltered to subsequent providers in the call path signaling information identifying the telephone number, or billing number, if different, of the calling party that is received with a call. In addition, section 64.2201(b) requires intermediate providers to return unaltered to providers in the call path any signaling information that indicates that the terminating provider is alerting the called party, such as by ringing. Are any additional rules necessary to prevent intermediate providers from manipulating signaling information for calls destined for rural areas? If we adopt an annual certification requirement, should we require intermediate providers to certify compliance with these rules in their annual certifications?

21. Are these best practices sufficient? Should we require intermediate providers to take reasonable steps to follow any other industry best practices, either in addition to or in place of those discussed above? Should we require intermediate providers to temporarily or permanently remove an intermediate provider who fails to perform at an acceptable service level from the routing path, as we required for covered providers? Although we declined to mandate this approach for covered providers, should we require intermediate providers to take reasonable steps to limit the number of intermediate providers after them in the call chain? How can we ensure that our rules keep pace if ATIS rural call completion best practices or other industry-based standard is modified? What are the costs, benefits, and implications of these requirements on covered providers, intermediate providers, and consumers? Are there other implementation issues associated with these best practices that we should consider? We seek comment on the approach we propose generally, including on how we should define ''reasonable steps.'' We also seek comment on alternatives to this proposal, such as omitting the language ''take reasonable steps to'' from the draft rule.

22. *Self-Monitoring of Rural Call Completion Performance.* Second, in addition to the proposed requirement to comply with industry best practices, we propose requiring intermediate providers to have processes in place to monitor their own rural call completion performance when transmitting covered voice communications. We seek comment on whether we should model this self-monitoring rule on the monitoring rule for covered providers. In what ways, if any, should the two requirements vary? Should the self-monitoring rule for intermediate providers be more prescriptive than the monitoring rule for covered providers we adopt, and if so why and how? How can we ensure that the combined monitoring requirements work harmoniously to best promote rural call completion while avoiding wasteful duplicative effort? For instance, should we allow a safe harbor for covered providers who work with an intermediate provider that meets our intermediate provider monitoring requirements and reports back or certifies its compliance to the covered provider?

23. If commenters believe the intermediate provider self-monitoring requirement and covered provider monitoring rule should differ, we seek comment on how they should differ. Should we specify the form and frequency of the required monitoring, and if so, how? Should we clarify the scope of the required monitoring by intermediate providers, and if so how? For example, should we clarify whether the monitoring must be conducted on a rural OCN-by-OCN basis? Should we specify how intermediate providers must monitor and assess their own rural call completion performance or should we leave this to the discretion of intermediate providers? We also seek comment on any other potential implementation issues associated with the proposed self-monitoring requirement. Additionally, we seek comment on the benefits and burdens of this proposal with regard to small intermediate providers.

24. *Compliance.* Further, we seek comment on how we can best ensure compliance with our proposed requirements. While we rejected requiring covered providers to file an annual certification of compliance with the monitoring rule, should we nonetheless require intermediate providers to file annual certifications that they are taking reasonable steps to follow the specified best practices? If so, how should such a requirement be implemented?

2. Alternative Proposals

25. We seek comment on alternative proposals for service quality standards. If we were to pursue ''the more general adoption of duties to complete calls analogous to those that already apply to covered providers under prior Commission rules and orders,'' with which basic practices should we require intermediate providers to comply? For instance, should we explicitly prohibit intermediate providers from blocking or restricting calls to rural areas? We seek comment on such a requirement, including whether any exceptions would need to be permitted.

26. Alternatively, should we require intermediate providers to meet or exceed one or more numeric rural call completion performance targets or thresholds while giving them flexibility in how to meet this requirement? If so, what metric(s) should we utilize and what target(s) or threshold(s) should we set? How would we address the data quality issues we have previously seen in our reports in creating and enforcing such a metric?

27. Finally, we seek comment on whether we should require intermediate providers to certify that they do not transmit covered voice communications to other intermediate providers that are not registered with the Commission and on any implementation issues associated with such a requirement. Is such a requirement necessary given that new section 262(b) prohibits covered providers from using intermediate providers that are unregistered?

3. Impact of Covered Provider Requirements on Quality Standards

28. For each of the proposals above and any potential alternative, we also seek comment on its relationship to the requirements for covered providers we adopt in today's *Order.* In particular, how should the quality standards we adopt for intermediate providers be influenced by the monitoring rule we establish for on covered providers, if at all? Does the fact that we adopted a flexible, standard-based approach for covered providers suggest that we should do the same for intermediate providers? Or does it encourage us to adopt specific measures for intermediate provider quality standards, so that covered providers can refer to intermediate provider compliance when working to fulfill the monitoring rule? We seek comment on these and any other issues regarding the interplay between our proposed service quality standards and the covered provider requirements adopted in today's *Order.*

D. Enforcement of Intermediate Provider Requirements

29. We seek comment on how to enforce the registration and service quality requirements that we adopt for intermediate providers. Should an intermediate provider's failure to comply with the quality standards we adopt or to fully and accurately register potentially result in removal from the registry, thereby preventing covered providers from using that intermediate provider? We seek comment on this issue and any related implementation issues. For example, how long should removal from the registry last? And what process should we establish for permitting an intermediate provider that has been removed from the registry for noncompliance to be reinstated?

30. For the Commission to exercise its forfeiture authority for violations of the Act and the Commission's rules without first issuing a citation, the wrongdoer must hold (or be an applicant for) some form of authorization from the Commission, or be engaged in activity for which such an authorization is required. Intermediate providers are not currently required to obtain a Commission authorization (although some intermediate providers may hold Commission authorizations as a result of other services that they provide). We propose to interpret the act of registration itself as a grant of Commission authorization to intermediate providers and allow us to exercise our forfeiture authority against registered providers without first issuing a citation. We seek comment on this proposal. Does this proposal allow us to take appropriate enforcement action against providers that violate the intermediate provider requirements that we adopt? Are there drawbacks to this proposal, or practical implementation issues we should consider? Is there an alternate mechanism to gain enforcement authority over intermediate providers that we should adopt?

31. In addition, to the extent that any intermediate providers are not common carriers, we seek comment on appropriate penalties and enforcement processes for violations of the RCC Act. Presently, common carriers may be assessed a forfeiture of up to $196,387 per violation or each day of a continuing violation and up to a statutory maximum of $1,963,870 for any single act or failure to act. These amounts reflect inflation adjustments to the forfeitures specified in section 503(b)(2)(B) of the Act ($100,000 per violation or per day of a continuing violation and $1,000,000 per any single act or failure to act). The Federal Civil Penalties Inflation Adjustment Act Improvement Act of 2015 (2015 Inflation Adjustment Act) requires the Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. Further, the 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the violations associated with the penalties predate the increase. In contrast, non-common carrier entities that hold Commission authorizations, but are not specifically designated in section 503(b)(2)(A) through (C) of the Act, are subject to a forfeiture of up to $19,639 per violation or each day of a continuing violation and up to a statutory maximum of $147,290 for any single act or failure to act. These penalties also apply to an entity that does not hold (and is not required to hold) a Commission license, permit, certificate, or other instrument of authorization, but, as explained above, is subject to forfeiture after a citation has first been issued. Under our proposal, we could impose forfeitures on intermediate providers registered with us without first issuing a citation. In such cases, which penalty is the more appropriate maximum forfeiture for intermediate providers that are not otherwise considered common carriers? If commenters believe that such entities should be subject to the same potential penalties as common carriers, what legal authority do we have for that approach? Commenters advocating for a given approach should discuss in detail the legal analysis and/or any relevant precedent that they believe could justify such action. Are there other bases for imposing on any intermediate providers that are not common carriers equivalent enforcement provisions as those imposed on traditional common carriers in the rural call completion context?

32. Should intermediate providers be prohibited from registering with the Commission if they are ''red-lighted'' by the Commission for unpaid debts or other reasons? And how can we prevent individuals from circumventing registration prohibitions by forming and registering new intermediate provider entities? Are there other reasons for which intermediate providers should be deemed ineligible to register? We seek comment on these and any alternative approaches that commenters believe would put any intermediate providers that are not common carriers on an equal footing with intermediate providers that are common carriers.

E. Exception to Service Quality Standards for Safe Harbor Covered Providers

33. The RCC Act creates an exception to the intermediate provider service quality standards to be established by the Commission for those intermediate providers that are also safe harbor covered providers. In order to qualify for the Safe Harbor, covered providers satisfy three qualification requirements: (1) The covered provider must restrict by contract any intermediate provider to which a call is directed from permitting more than one additional intermediate provider in the call path before the call reaches the terminating provider or terminating tandem; (2) any nondisclosure agreement with an intermediate provider must permit the covered provider to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural incumbent LEC(s) whose incoming long-distance calls are affected by the intermediate provider's performance; and (3) the covered provider must have a process in place to monitor the performance of its intermediate providers. Specifically, new section 262(h) provides that the service quality standards ''shall not apply to a covered provider that—(1) on or before the date that is 1 year after the date of enactment of this section, has certified as a safe harbor provider under section 64.2107(a) . . . or any successor regulation; and (2) continues to the meet the requirements under such section 64.2107(a).'' Therefore, to implement new section 262(h), we propose to retain

the three qualification requirements of our existing safe harbor rule. That is, a covered provider seeking to qualify for the safe harbor within the timeframe specified under the legislation would need to meet the existing qualification requirements in section 64.2107(a) of our rules. We seek comment on this proposal.

34. We also seek comment on the interaction between the exemptions contained in the RCC Act and our removal of the RCC data reporting requirements. In this connection, we seek comment on how phasing out the remaining recording and retention requirements, if we were to adopt that approach, could affect the safe harbor provisions of section 64.2107(a), and by extension, our implementation of section 262(h). If we were to eliminate the recording and retention requirements from which the safe harbor provides partial relief, will safe harbor covered providers have sufficient incentive to continue to use no more than two intermediate providers in the path of a given call? Stated differently, will relief from the intermediate provider service quality standards pursuant to section 262(h) provide adequate incentive for current safe harbor covered providers to continue utilizing no more than two intermediate providers in the call path in an effort to reduce rural call completion problems? Do commenters have alternative proposals for implementing section 262(h)? For our proposal and any alternative proposal, we seek comment on its costs and benefits (including for smaller providers), implementation issues, and its effect on reducing rural call completion problems.

F. RCC Act Definitions

35. We seek comment on any other issues we should take into account with respect to the RCC Act's definitions of the terms ''intermediate provider,'' ''covered voice communication,'' and ''covered provider.'' In addition, we seek comment on whether there are any other terms that we should define explicitly for purposes of implementing the RCC Act and, if so, how we should define those terms.

36. *Intermediate Provider.* New section 262(i) of the Act defines an ''intermediate provider'' as any entity that ''(A) enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—(i) from an end user connection using a North American Numbering Plan resource; or (ii) to an end user connection using such a numbering resource; and (B) does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.'' We propose to adopt the same definition of ''intermediate provider'' in our rules implementing the RCC Act. We seek comment on this proposal and on what, if any, additional guidance we should provide concerning this definition. We also seek comment on possible alternatives.

37. Our existing rural call completion rules define ''intermediate provider'' differently from the RCC Act. Specifically, under section 64.2101 of the Commission's rules, ''intermediate provider'' is given the same meaning as in section 64.1600(f), which defines it as ''any entity that carries or processes traffic that traverses or will traverse the PSTN at any point insofar as that entity neither originates nor terminates that traffic.'' For our rural call completion rules governing covered providers, we propose to modify the existing definition of intermediate provider in section 64.2101 to make it consistent with the definition of intermediate provider in the RCC Act. We seek comment on the effects of this proposed modification. Do commenters believe that there is a substantive difference between the definition of ''intermediate provider'' in our existing rules and in the RCC Act? Should we supplement our proposed definition of ''intermediate provider'' to reflect this difference, and if so, how? For example, should certain types of entities be exempt from the definition of ''intermediate provider''?

38. *Covered Voice Communication.* The RCC Act defines ''covered voice communication'' as ''a voice communication (including any related signaling information) that is generated—(A) from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and (B) through any service provided by a covered provider.'' We propose to adopt the same definition in our rules implementing the RCC Act. We seek comment on this proposal and on any additional guidance we should provide on this definition. We also seek comment on the meaning of the phrase ''through any service provided by a covered provider.'' Is a voice communication ''covered'' if it does not originate with a covered provider but the call traverses or terminates on the network of covered provider? Would such voice communication include those carried by non-interconnected VoIP providers or private networks in the call path? More generally, how should non-interconnected VoIP providers and private networks be regulated to ensure the completion of calls to rural areas, and what rules should apply in that regard?

39. *Covered Provider.* New section 262(i)(1) of the Act gives the term ''covered provider'' the same meaning as in the Commission's existing rural call completion rules ''or any successor thereto.'' For purposes of implementing the RCC Act, we propose to retain the definition of ''covered provider'' as in our existing rules. We seek comment on this proposal.

G. Legal Authority

40. We believe that the RCC Act gives us ample legal authority to adopt the proposed registration requirements and service quality standards for intermediate providers and any potential alternative proposals. We seek comment on this view, and on additional or alternative sources of authority for the rules we propose and on which we seek comment above. To the extent that additional authority necessary, we seek comment on sections 201(b), 251(a), and 403 as additional sources of authority for our proposals.

H. Sunset of Recording and Retention Rules

41. We seek comment on elimination of the recordkeeping and retention rules adopted in the RCC Order in conjunction with our implementation of the RCC Act. As we have observed, the rural call completion data collection has been characterized by challenges that limit its utility for some of its intended purposes. Going forward, we anticipate that progress on intercarrier compensation reform, our newly adopted requirement that covered providers monitor their intermediate providers, and the implementation of the RCC Act should allow the Commission to more efficiently address rural call completion issues. We therefore seek comment on whether to sunset the remaining recordkeeping and retention rules upon effectiveness of rules we adopt to implement the RCC Act.

42. Alternatively, should we sunset the rules at a different point in time, such as three years from today's Order, on the view that this will allow sufficient time for the Commission to undertake further intercarrier compensation reform, and for compliance with the rules we adopt today and those to implement the RCC Act to promote rural call completion? We seek comment on further

alternatives, including whether we should instead retain the recording and retention rules without any sunset.

I. Modification of Rules Adopted in the Second Report and Order

43. In the *RCC Second Report and Order,* we conclude that covered provider monitoring requirements we adopt are necessary complements to the intermediate provider requirements created by the RCC Act. We seek comment on whether we should revisit our conclusions as we implement the RCC Act. Should we change the monitoring requirements that we adopt today in light of the service quality standards for intermediate providers under consideration in this *Third Further Notice of Proposed Rulemaking*? If so, how? Should we create a safe harbor for covered providers who work with intermediate providers that meet our quality standards? What would be the contours of such a safe harbor so that it would be meaningful, considering that the RCC Act directs all intermediate providers to meet the quality standards we adopt? Alternatively, should we remove covered provider requirements entirely once the RCC Act is fully implemented? Would such changes jeopardize our ability to identify and penalize providers, including intermediate providers, that violate the Communications Act or our call blocking rules? We seek comment on these and any alternative approaches.

II. Initial Regulatory Flexibility Analysis

44. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Third Further Notice of Proposed Rulemaking.* The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *Third Further Notice of Proposed Rulemaking.* The Commission will send a copy of the *Third Further Notice of Proposed Rulemaking,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Third Further Notice of Proposed Rulemaking* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

45. The *Third Further Notice of Proposed Rulemaking* proposes and seeks comment on rules to implement the recently-enacted Improving Rural Call Quality and Reliability Act of 2017 (RCC Act). The RCC Act directs us to (1) promulgate registration requirements for intermediate providers within 180 days of enactment, and create a registry for such providers on our website; and (2) establish service quality standards for intermediate providers within one year of enactment. We propose and seek comment on rules to implement the registry provisions of the RCC Act. We further seek comment generally on possible frameworks to implement the service quality standards provisions of the RCC Act. We also seek comment on sunsetting the recording and retention rules established in the RCC Order upon implementation of the RCC Act. As we move forward, we will work quickly to implement the RCC Act and continue take other measures as necessary ''to ensure the integrity of voice communications and to prevent unjust or unreasonable discrimination among areas of the United States in the delivery of such communications.''

B. Legal Basis

46. The legal basis for any action that may be taken pursuant to the *Third Further Notice of Proposed Rulemaking* is contained in sections 1, 4(i), 201(b), 202(a), 218, 220(a), 251(a), 262, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 218, 220(a), 251(a), 262, and 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

47. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and by the rule revisions on which the NPRM seeks comment, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

48. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,215 small organizations. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data published in 2012 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

49. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having

1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

50. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

51. *Incumbent LECs.* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. Three hundred and seven (307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

52. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined above. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECS, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers, are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. Also, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, based on internally researched FCC data, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities.

53. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.,* a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

54. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined above. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicates that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. According to internally developed Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our proposed rules.

55. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, all operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these prepaid calling card providers can be considered small entities.

56. *Toll Resellers.* The Commission has not developed a definition for Toll Resellers. The closest NAICS Code Category is Telecommunications Resellers. The Telecommunications Resellers industry comprises establishments engaged in purchasing access and network capacity from owners and operators of telecommunications networks and reselling wired and wireless telecommunications services (except satellite) to businesses and households. Establishments in this industry resell telecommunications; they do not operate transmission facilities and infrastructure. Mobile virtual network operators (MVNOs) are included in this industry. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that 1,341 firms provided resale services during that year. Of that number, 1,341 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of these resellers can be considered small entities. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of this total, an estimated 857 have 1,500 or fewer employees. Consequently, the Commission estimates that the majority of toll resellers are small entities.

57. *Other Toll Carriers.* Neither the Commission nor the SBA has developed

a definition for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers as defined above. Under the applicable SBA size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to internally developed Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers are small entities that may be affected by rules adopted pursuant to the Second Further Notice.

58. *Prepaid Calling Card Providers.* The SBA has developed a definition for small businesses within the category of Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the Commission's Form 499 Filer Database, 500 companies reported that they were engaged in the provision of prepaid calling cards. The Commission does not have data regarding how many of these 500 companies have 1,500 or fewer employees. Consequently, the Commission estimates that there are 500 or fewer prepaid calling card providers that may be affected by the rules.

59. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1000 employees or more. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

60. The Commission's own data—available in its Universal Licensing System—indicate that, as of October 25, 2016, there are 280 Cellular licensees that will be affected by our actions today. The Commission does not know how many of these licensees are small, as the Commission does not collect that information for these types of entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service, and Specialized Mobile Radio Telephony services. Of this total, an estimated 261 have 1,500 or fewer employees, and 152 have more than 1,500 employees. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

61. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.

62. Wireless Telephony. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

63. *Cable and Other Subscription Programming.* This industry comprises establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA has established a size standard for this industry stating that a business in this industry is small if it has 1,500 or fewer employees. The 2012 Economic Census indicates that 367 firms were operational for that entire year. Of this total, 357 operated with less than 1,000 employees. Accordingly we conclude that a substantial majority of firms in this industry are small under the applicable SBA size standard.

64. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but eleven cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

65. *Cable System Operators (Telecom Act Standard).* The Communications Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' There are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues

exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

66. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Consequently, we estimate that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

67. The *Third Further Notice of Proposed Rulemaking* proposes and seeks comment on rule changes that will affect reporting, recordkeeping, and other compliance requirements. In particular, the *Third Further Notice of Proposed Rulemaking* proposes to adopt the definitions of the terms ''intermediate provider'', ''covered voice communication'', and ''covered provider'' provided in the RCC Act in our rules. With respect to the RCC Act's registry requirements, we propose and seek comment on rules to implement those provisions, and seek comment on: (a) How to interpret and implement the RCC Act's prohibition on covered providers' use of unregistered intermediate providers; (b) how best to ensure compliance with that prohibition; (c) whether we should adopt any exceptions to the prohibition on using unregistered intermediate providers, and (d) whether any such exceptions would be consistent with the RCC Act. The *Third Further Notice of Proposed Rulemaking* also proposes to require intermediate providers to take reasonable steps to abide by certain industry best practices for rural call completion, and to have processes in place to monitor their own rural call completion performance when transmitting covered voice communications. We seek comment on how to enforce the registration and service quality requirements that we adopt for intermediate providers. Should the Commission adopt these proposals, such action could result in increased, reduced, or otherwise altered reporting, recordkeeping, or other compliance requirements for covered providers.

68. In the *Third Further Notice of Proposed Rulemaking,* we also propose to retain the three qualification requirements of our existing safe harbor rule, and seek comment on sunsetting the recording and retention rules established in the RCC Order upon implementation of the RCC Act. Should the Commission adopt these measures, we expect such action to reduce reporting, recordkeeping, and other compliance requirements. Specifically, these measures should have a beneficial reporting, recordkeeping, or compliance impact on small entities because many providers will be subject to fewer such burdens.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

69. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

70. The *Third Further Notice of Proposed Rulemaking* seeks comment on a variety of proposals to implement the registry provisions of the RCC Act and possible frameworks to implement the service quality standards provisions of the RCC Act. It also specifically seeks comment on the benefits and burdens to smaller providers of our proposals (and any potential alternative proposals) for structuring and managing the intermediate provider registry. With respect to possible frameworks to implement the service quality standards, the *Third Further Notice of Proposed Rulemaking* seeks comment on the costs, benefits, and impact on smaller intermediate providers of each of the proposals outlined and each potential alternative proposed by commenters. We also seek comment on how to interpret and implement the RCC Act's prohibition on covered providers' use of unregistered intermediate providers, and we seek comment on the costs and benefits (including to smaller providers) and implementation issues for each potential interpretation.

71. *The Third Further Notice of Proposed Rulemaking* seeks comment on all of our proposals, as well as alternatives that could also address rural call completion problems while reducing burdens on small providers. In the *Third Further Notice of Proposed Rulemaking,* we explicitly seek comment on the impact of our proposals on small providers. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the *Third Further Notice of Proposed Rulemaking,* in reaching its final conclusions and taking action in this proceeding.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

72. None.

III. Procedural Matters

A. Comment Filing Procedures

73. Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document in Dockets WC 17–192, and CC 95–155. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one

docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

74. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by Rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Initial Regulatory Flexibility Analysis

75. Pursuant to the Regulatory Flexibility Act (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and actions considered in this *Third Further Notice of Proposed Rulemaking.* The text of the IRFA is set forth above. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comment on the *Third Further Notice of Proposed Rulemaking.* The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this *Third Further Notice of Proposed Rulemaking,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

C. Paperwork Reduction Act

76. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Contact Person

77. For further information about this proceeding, please contact Zach Ross, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C211, 445 12th Street SW, Washington, DC 20554, at (202) 418–1033 or *Zachary.Ross@fcc.gov.*

IV. Ordering Clauses

78. Accordingly, *it is ordered* that, pursuant to sections 1, 4(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201(b), 202(a), 217, 218, 220(a), 251(a), and 403, this *Third Further Notice of Proposed Rulemaking is adopted.*

79. *It is further ordered* that the Commission *shall send* a copy of this *Third Further Notice of Proposed Rulemaking* to Congress and to the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

80. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Third Further Notice of Proposed Rulemaking,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Miscellaneous rules relating to common carriers, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons set forth above, The Federal Communications Commission proposes to amend Part 64 of Title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 47 U.S.C. 154, 202, 225, 251(e), 254(k), 262, 403(b)(2)(B), (c), 616, 620, Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 202, 217, 218, 220, 222, 225, 226, 227, 228, 251(a), 251(e), 254(k), 262 616, 620, and the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96, unless otherwise noted.

■ 2. Amend § 64.2101 by adding a definition of ''covered voice communication'' and revising the

definition of ''intermediate provider'' to read as follows:

§ 64.2101 Definitions.

* * * * *

Covered voice communication. The term ''covered voice communication'' means a voice communication (including any related signaling information) that is generated—

(1) from the placement of a call from a connection using a North American Numbering Plan resource or a call placed to a connection using such a numbering resource; and

(2) through any service provided by a covered provider.

* * * * *

Intermediate provider. The term ''intermediate provider'' means any entity that—

(a) enters into a business arrangement with a covered provider or other intermediate provider for the specific purpose of carrying, routing, or transmitting voice traffic that is generated from the placement of a call placed—

(1) from an end user connection using a North American Numbering Plan resource; or

(2) to an end user connection using such a numbering resource; and

(b) does not itself, either directly or in conjunction with an affiliate, serve as a covered provider in the context of originating or terminating a given call.

* * * * *

■ 3. Amend § 64.2107 by revising to read as follows:

§ 4.2107 Safe Harbor from Intermediate Provider Service Quality Standards.

(a)(1) A covered provider may qualify as a safe harbor provider under this subpart if it files one of the following certifications, signed under penalty of perjury by an officer or director of the covered provider regarding the accuracy and completeness of the information provided, in WC Docket No. 13–39:

I ____(name), (title), an officer of ____(entity), certify that ____(entity) uses no intermediate providers;'' or

I ____(name),____(title), an officer of____(entity), certify that ____(entity) restricts by contract any intermediate provider to which a call is directed by____(entity) from permitting more than one additional intermediate provider in the call path before the call reaches the terminating provider or terminating tandem. I certify that any nondisclosure agreement with an intermediate provider permits____(entity) to reveal the identity of the intermediate provider and any additional intermediate provider to the Commission and to the rural incumbent local exchange carrier(s) whose incoming long-distance calls are affected by the intermediate provider's performance. I certify that____(entity) has a process in place to monitor the performance of its intermediate providers.

(2) The certification in paragraph (a)(1) must be submitted:

(A) for the first time on or before February 26, 2019; and

(B) annually thereafter.

(b) The requirements of section 64.2117 shall not apply to covered providers who qualify as safe harbor providers in accordance with this section.

■ 4. Add § 64.2115 to subpart V to read as follows:

§ 64.2115 Registration of Intermediate Providers.

(a) *Requirement to use registered intermediate providers.* A covered provider shall not use an intermediate provider to transmit covered voice communications unless such intermediate provider is registered pursuant to this section.

(b) *Registration.* An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission shall register with the Commission in accordance with this section. The intermediate provider shall provide the following information in its registration:

(1) The intermediate provider's business name(s) and primary address;

(2) The name(s), telephone number(s), email address(es), and business address(es) of the intermediate provider's regulatory contact and/or designated agent for service of process;

(3) All names that the intermediate provider has used in the past;

(4) The state(s) in which the intermediate provider provides service; and

(5) The name, title, business address, telephone number, and email address of at least one person as well as the department within the company responsible for addressing rural call completion issues.

(c) *Submission of registration.* An intermediate provider that is subject to the registration requirement in paragraph (b) of this section shall submit the information described therein through the intermediate provider registry on the Commission's website. The registration shall be made under penalty of perjury.

(d) *Changes in information.* An intermediate provider must update the information provided pursuant to paragraph (b) of this section within one week of any change.

(e) *Effect of registration.* An intermediate provider that submits registration pursuant to subsections (b) and (c) of this section, and receives confirmation that its registration is complete, is thereby granted an authorization to operate as an intermediate provider that covered providers may use under subsection (a).

■ 5. Add § 64.2117 to subpart V to read as follows:

§ 64.2117 Intermediate Provider Service Quality Standards.

An intermediate provider that offers or holds itself out as offering the capability to transmit covered voice communications from one destination to another and that charges any rate to any other entity (including an affiliated entity) for the transmission must comply with the following requirements when transmitting covered voice communications:

(a) The intermediate provider must take reasonable steps to:

(1) prevent handing off a call for completion to a provider that has previously handed off the same call;

(2) release a call back to the originating interexchange carrier if the intermediate provider fails to find a route for completion of the call; and

(3) prevent processing of calls in a manner that terminates and re-originates the calls.

(b) The intermediate provider must have processes in place to monitor its rural call completion performance.

[FR Doc. 2018–09968 Filed 5–10–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 18–43, RM–11797; DA 18–146]

Radio Broadcasting Services; Connerville, Oklahoma

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by The Chickasaw Nation, proposing to amend the FM Table of Allotments, by allotting Channel 247A at Connerville, Oklahoma, as the first local Tribal-owned commercial service. A staff engineering analysis indicates that Channel 247A can be allotted to

Connerville consistent with the minimum distance separation requirements of the Commission's rules. The reference coordinates are 34–25–00 NL and 96–43–53 WL with a site restriction of 9.40 km (5.84 miles) southwest of the community.

DATES: Comments must be filed on or before May 29, 2018, and reply comments on or before June 13, 2018.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street SW, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: The Chickasaw Nation, c/o John Crigler, Esq., Suite 200, Flour Mill Building, 1000 Potomac Street NW, Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 18–43, adopted February 14, 2018, and released February 14, 2018. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street SW, Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/*. This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by adding Connerville, Channel 247A to read as follows in alphabetical order:

§ 73.202 Table of Allotments.

* * * * *

(b) *Table of FM Allotments.*

Oklahoma	
* * *	
Connerville	247A
* * *	

* * * * *

[FR Doc. 2018–10056 Filed 5–10–18; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 83, No. 92
Friday, May 11, 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

Agricultural Marketing Service

[Doc. No. AMS–SC–18–0002; SC18–996–1]

Peanut Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for nominations.

SUMMARY: The Farm Security and Rural Investment Act of 2002 (2002 Farm Bill) requires the Secretary of Agriculture (Secretary) to establish a Peanut Standards Board (Board) for the purpose of advising the Secretary on quality and handling standards for domestically produced and imported peanuts. The U.S. Department of Agriculture (USDA) is seeking nominations for individuals to be considered for selection as Board members for a term of office ending June 30, 2021.

DATES: Written nominations must be received on or before June 25, 2018.

ADDRESSES: Nominations should be sent to Steven W. Kauffman of the Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1124 1st Street South, Winter Haven, FL 33880; Telephone: (863) 324–3375; Fax: (863) 291–8614; Email: *Steven.Kauffman@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1308 of the 2002 Farm Bill requires the Secretary establish and consult with the Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for all domestic and imported peanuts marketed in the United States.

The 2002 Farm Bill provides that the Board's makeup will include three producers and three peanut industry representatives from States specified in each of the following producing regions: Southeast (Alabama, Georgia, and Florida); Southwest (Texas, Oklahoma, and New Mexico); and Virginia/Carolina (Virginia and North Carolina). The Board consists of 18 members with representation equally divided between peanut producers and industry representatives. Each term of office is for a period of three years. The terms of office are staggered in order to replace one third of the Board each year.

The term ''peanut industry representatives'' includes, but is not limited to, representatives of shellers, manufacturers, buying points, marketing associations and marketing cooperatives. The 2002 Farm Bill exempted the appointment of the Board from the requirements of the Federal Advisory Committee Act.

USDA invites individuals, organizations, and groups affiliated with the categories listed above to nominate individuals for membership on the Board. All qualified nominees are forwarded for consideration as the Farm Bill does not provide for any voting. Appointees sought by this action will fill two positions in the Southeast region, two positions in the Southwest region, and two positions in the Virginia/Carolina region.

Nominees should complete an Advisory Committee or Research and Promotion Background Information form (AD–755) and submit it to Steven W. Kauffman at the address provided in the **ADDRESSES** section above. Copies of this form may be obtained at the internet site *http://www.ams.usda.gov/about-ams/facas-advisory-councils/peanut-board,* or from the Southeast Marketing Field Office. USDA seeks a diverse group of members representing the peanut industry.

Equal opportunity practices will be followed in all appointments to the Board in accordance with USDA policies. To ensure that the recommendations of the Board have taken into account the needs of the diverse groups within the peanut industry, membership shall include, to the extent practicable, individuals with demonstrated abilities to represent minorities, women, persons with disabilities, and limited resource agriculture producers.

Authority: 7 U.S.C. 7958.

Dated: May 8, 2018.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2018–10104 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 8, 2018.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 11, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food Safety and Inspection Service

Title: Common or Usual Name for Raw Meat and Poultry Products Containing Added Solutions.

OMB Control Number: 0583–0152.

Summary of Collection: The Food Safety and Inspection Service (FSIS) has been delegated the authority to exercise the functions of the Secretary as provided in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*). These statutes mandate that FSIS protect the public by ensuring that meat and poultry products are safe, wholesome, unadulterated, and properly labeled and packaged. FSIS regulations establish a common or usual name for raw meat and poultry products that do not meet standard or identity regulations and to which solutions have been added. Products with added solutions are sometimes called referred to as ''enhanced products.''

Need and Use of the Information: FSIS requires that establishments that manufacture products containing added solutions to identify the common or usual name for such products and include an accurate description of the raw meat or poultry component, the percentage of added solution incorporated into the raw meat and poultry product, and the individual ingredients or multi-ingredient components in the solution listed in the descending order of predominance by weight. FSIS also requires that the print for all words in the common or usual name appear in a single font size, color, and style of print and that the name appear on a single-color contrasting background.

Description of Respondents: Business or other for-profit.

Number of Respondents: 6,100.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 61,000.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–10086 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Agency Information Collection Activities: Revision and Extension of Approved Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Food Safety and Inspection Service, Department of Agriculture.

ACTION: 30-Day notice of submission of information collection approval from the Office of Management and Budget and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, the Department of Agriculture (USDA), the Food Safety and Inspection Service (FSIS) has submitted a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA).

DATES: Comments must be submitted by June 11, 2018.

ADDRESSES: Written comments may be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Ruth Brown (202) 720–8958.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** on December 22, 2017 (82 FR 60700). No comments were received.

The Food Safety and Inspection Service—0583–0151

Current Actions: Revision and Extension of Currently Approved Collection.

Type of Review: Revision and Extension.

Affected Public: Not-for-profit institutions.

Average Expected Annual Number of activities: 5.

Respondents: 4,000.

Annual responses: 4,000.

Frequency of Response: Once per request.

Average minutes per response: 30.

Burden hours: 2,000.

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 Office of Management and Budget control number.

Dated: May 7, 2018.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–09984 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0027]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Importation of Mangoes from Australia

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the importation of mangoes from Australia.

DATES: We will consider all comments that we receive on or before July 10, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2018-0027.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2018–0027, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0027* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information regarding the importation of mangoes from Australia, contact Mr. Juan (Tony) Roman, Senior Import Specialist, IRM, PHP, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2242. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Importation of Mangoes From Australia.

OMB Control Number: 0579–0391.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States. Regulations authorized by the PPA concerning the importation of fruits and vegetables into the United States from certain parts of the world are contained in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–82).

In accordance with § 319.56–60, mangoes from Australia are subject to certain conditions before entering the continental United States to ensure that plant pests are not introduced into the United States. The regulations require information collection activities that include inspections, emergency action notification, notice of arrival, recordkeeping, and the inspection of the production site by the national plant protection organization (NPPO) of Australia. In addition, each shipment of mangoes must be accompanied by a phytosanitary certificate issued by the NPPO of Australia with an additional declaration stating that the mangoes were inspected prior to export and found free of certain pests and treated in accordance with the regulations.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. APHIS needs this outside input to help accomplish the following:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, *e.g.,* permitting electronic submission of responses.)

Estimate of burden: The public burden for this collection of information is estimated to average 0.634 hours per response.

Respondents: Importers of mangoes from Australia and the NPPO of Australia.

Estimated annual number of respondents: 20.

Estimated annual number of responses per respondent: 13.

Estimated annual number of responses: 257.

Estimated total annual burden on respondents: 163 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of May 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–10098 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2018–0026]

Notice of Request for Revision to and Extension of Approval of an Information Collection; Endangered Species Regulations and Forfeiture Procedures

ACTION: Revision to and extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a revision to and extension of approval of an information collection associated with the regulations for the protection of endangered species of terrestrial plants and for procedures related to the forfeiture of plants or other property.

DATES: We will consider all comments that we receive on or before July 10, 2018.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docket Detail;D=APHIS-2018-0026.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No.

APHIS–2018–0026, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0026* or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information on the regulations to protect endangered species of terrestrial plants and forfeiture procedures, contact Dr. John Veremis, National CITES Director, PHP, PPQ, APHIS, 4700 River Road, Unit 40, Riverdale, MD 20737–1236; (301) 851–2347. For copies of more detailed information on the information collection, contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

SUPPLEMENTARY INFORMATION:

Title: Endangered Species Regulations and Forfeiture Procedures.

OMB Control Number: 0579–0076.

Type of Request: Revision to and extension of approval of an information collection.

Abstract: Under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the U.S. Department of Agriculture (USDA) is responsible for enforcing provisions of the Act and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) that pertain to the importation, exportation, or reexportation of plants.

As part of this mission, USDA's Animal and Plant Health Inspection Service (APHIS) administers the regulations in 7 CFR part 355, ''Endangered Species Regulations Concerning Terrestrial Plants.'' In accordance with these regulations, any entity wishing to engage in the business of importing, exporting, or reexporting terrestrial plants listed in the CITES regulations at 50 CFR 17.12 or 23.23 must obtain a protected plant permit from APHIS. Such entities include importers, exporters, or reexporters who sell, barter, collect, or otherwise exchange or acquire terrestrial plants as a livelihood or enterprise engaged in for gain or profit. The requirement does not apply to persons engaged in business merely as carriers or customhouse brokers.

To obtain a protected plant permit, entities must complete an application and submit it to APHIS for approval. When a permit has been issued, the plants covered by the permit may be imported into the United States, exported, or reexported, provided they are accompanied by documentation required by the regulations and all other conditions of the regulations are met.

Effectively regulating entities who are engaged in the business of importing, exporting, or reexporting endangered species of terrestrial plants requires the use of this application process, as well as the use of other information collection activities including, but not limited to, appealing the denial of a permit; marking containers used for the importation, exportation, or reexportation of the plants; notifying APHIS of the impending importation, exportation, or reexportation of the plants; validating documents; creating and maintaining records of importation, exportation, and reexportation; and submitting related reports from records required to be maintained.

APHIS also administers regulations at 7 CFR part 356, ''Forfeiture Procedures,'' which sets out procedures for the forfeiture of plants or other property by entities found to be in violation of the Endangered Species Act or the Lacey Act (16 U.S.C. 3371 *et seq.*). Entities whose property is subject to forfeiture may file with APHIS a waiver of forfeiture procedures, a claim, a request for return of property, or petition for remission or mitigation of forfeiture.

The information provided by these information collection activities is critical to APHIS' ability to carry out its responsibilities under the Endangered Species Act and the Lacey Act. These responsibilities include monitoring importation, exportation, and reexportation activities involving endangered species of plants, as well as the investigation of possible violations and the forfeiture of plants or other property.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities, as described, for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public burden for this collection of information is estimated to average 0.094 hours per response.

Respondents: U.S. importers and exporters of endangered species of terrestrial plants.

Estimated annual number of respondents: 1,097.

Estimated annual number of responses per respondent: 148.

Estimated annual number of responses: 162,217.

Estimated total annual burden on respondents: 15,254 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of May 2018.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2018–10097 Filed 5–10–18; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rogue River-Siskiyou National Forest and Umpqua National Forest; Oregon; Stella Landscape Restoration Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The USDA Forest Service, Rogue River-Siskiyou National Forest (RRSNF), High Cascade Ranger District, is providing notice that it will prepare an Environmental Impact Statement (EIS) for the Stella Landscape Restoration Project (Project), which would implement multiple landscape restoration actions on National Forest System lands within an approximately 64,000-acre project planning area.

Restoration actions include vegetation treatments, prescribed fire, sustainable recreation, and sustainable roads actions. Included in the project area is approximately 4,000 acres on the Umpqua National Forest, in the Huckleberry Special Interest Area, which is adjacent to the RRSNF. Only non-commercial activities are proposed on the Umpqua National Forest. In order to implement the Project, the RRSNF also identified the need for a project-specific amendment to the Rogue River Land and Resource Management Plan to exempt the Big Game Winter Range Management Strategy from the thermal cover requirement.

DATES: Comments concerning the scope of the analysis must be received by June 11, 2018. The Draft Environmental Impact Statement (DEIS) is expected in spring of 2019 and the Final Environmental Impact Statement (FEIS) is expected in spring of 2020.

ADDRESSES: Send written comments to David Palmer, District Ranger, High Cascade Ranger District, 47201 Hwy. 62, Prospect, OR 97536. Comments may be submitted electronically at *comments-pacificnorthwest-rogueriver-highcascades@fs.fed.us.* Comments may also be sent via facsimile to 541–247–3641 or submitted in person during regular business hours, Monday–Friday, 8:00 a.m.–4:30 p.m. at the address listed above.

FOR FURTHER INFORMATION CONTACT: Anne Trapanese, Environmental Coordinator *atrapanese@fs.fed.us,* 541–560–3433.

Individuals who use telecommunication devices for the deaf may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need

The purpose and need for this project includes the need to restore forest resiliency by reestablishing forest structure and pattern, vegetation composition and diversity, and riparian communities to conditions that are more resilient to natural disturbance processes. Comparison of the existing condition with the desired condition indicates the specific need to reduce risk of habitat degradation and loss from uncharacteristic wildfire and/or insect and disease outbreak. There is a need to maintain and improve habitat for fish and wildlife species and sustain and enhance northern spotted owl habitat to aid in recovery.

Additionally, there is a need to conserve and restore culturally significant plants and maintain habitat for rare plant populations. There is a need within the project area to provide for a variety of social and cultural values and opportunities, such as huckleberry picking and hunting. There is a need to contribute to the RRSNF probable sale quantity target, and a need to restore and provide a sustainable road and trail transportation system.

Proposed Action

This project proposes approximately 23,000 acres of variable density thinning, 3,000 acres of plantation thinning, and 5,500 acres of non-commercial plantation thinning for a total of 31,500 acres of vegetation treatment. Thinning of natural stands and managed stands, along with application of prescribed fire, would be the primary restoration actions for pines and plantation units. Thinning in pure Douglas fir stands would allow for the growth of large trees in the future. Changes in road maintenance levels and road decommissioning would address water quality concerns, provide for wildlife needs, and move towards a sustainable road system.

Approximately 13,000 acres of special habitat restoration are proposed. The special habitat restoration would use primarily non-commercial mechanical treatment to restore a variety of different habitats. The restoration treatments would benefit huckleberry, aspen, meadow, oak, and legacy pine.

Forty-two miles of stream restoration are proposed within the project area. Stream restoration would utilize large wood and rock placement in fish bearing streams to restore habitat. These structures improve the complexity and function of instream habitat. The culverts targeted for replacement would allow all life stages of aquatic organisms to pass. The current culverts in these locations do not allow this.

The recreation proposals include installing modern vault style outhouses at Woodruff Day Use area. The existing outhouses at this popular day use site are cemented culverts that may not hold up over time, and could have a negative impact on water quality. This is necessary to maintain and improve fish habitat, of which water quality is an important component. The Off-Highway Vehicle (OHV) trail re-route would take existing trail off of mixed use maintenance level 2 roads and place it on maintenance level 1 roads to improve safety for riders.

The proposed action includes decommissioning approximately 40 miles of roads and changing 64 miles of roads to maintenance level 1. The proposed changes to road maintenance levels and decommissioning will make the current transportation system more sustainable. Many of these roads are currently being managed at a lower maintenance level on the ground, or are already part of the OHV Trail system. Some of these roads have been identified as likely not needed in Subpart A of Travel Management (36 CFR 212, Subpart A).

A project specific forest plan amendment is also likely needed to accomplish restoration actions within Management Strategy 14, Big Game Winter Range. This amendment would exempt the project from the requirement for thermal cover over ''50 percent of 500–1000 acre analysis areas.'' The amendment would apply to the 7,984 acres in this Management Strategy in the project area. This amendment would be the only exemption to Plan standards, and all other standards and guidelines would be unaffected; it would only apply to the RRSNF. When proposing a Forest Plan amendment, the 2012 planning rule (36 CFR 219), as amended, requires the responsible official to provide in the initial notice ''which substantive requirements of § 219.8 through 219.11 are likely to be directly related to the amendment'' (§ 219.13(b)(2)). Whether a rule provision is likely to be directly related to an amendment is determined by any one of the following: The purpose for the amendment, the beneficial effects of the amendment, and the substantial adverse effects of the amendment, as informed by the best available scientific information, scoping, effects analysis, monitoring data or other rationale. Based on this amendment proposal and requirements of the planning rule, the following substantive requirements of 36 CFR 219 would likely be directly related to the proposed amendment: 36 CFR 219.10(a)(1) Aesthetic values, cultural and heritage resources, ecosystem services, fish and wildlife species, forage, grazing and rangelands, habitat and habitat connectivity, recreation settings and opportunities, riparian areas, scenery, soil, surface water quality, timber, vegetation, viewsheds; and (a)(5) Habitat conditions, subject to the requirements of 36 CFR 219.9, for wildlife, fish, and plants commonly enjoyed and used by the public; for hunting, fishing, trapping, gathering, observing, subsistence, and other activities (in collaboration with federally recognized Tribes, Alaska Native Corporations, other Federal agencies, and State and local governments).

Possible Alternatives

The Project will analyze no action, the proposed action, and additional alternatives developed during the evaluation period that respond to issues generated throught the scoping process. The agency will give notice of the full environemental analysis and decision making process so interested and affected parties may participate and contribute to the final decision.

Responsible Official

The responsible officials for this decision will be the Forest Supervisor for the RRSNF and the Forest Supervisor for the Umpqua National Forest.

Nature of Decision To Be Made

The Forest Supervisors will decide where, and whether or not, to take action to meet desired conditions within the planning area. The responsible officials also will decide how to mitigate any potential impacts of these actions and will determine when and how possible effects monitoring would take place. The final Project decision and rationale will be documented in a Record of Decision supported by a Final EIS.

Per 36 CFR 218.7(a)(2), this is a project proposing to implement a land management plan and is not authorized under the Healthy Forests Restoration Act (HFRA). Therefore, it is subject to both subparts A and B of 36 CFR 218, Project-level Predecisional Administrative Review Process. This administrative review process also applies to the project-specific amendment, consistent with 36 CFR 219.59. Only those who submit timely and specific written comments regarding the proposed project or activity during a public comment period established by the responsible official are eligible to file an objection § 218.24(b)(6). The publication date of the NOI in the **Federal Register** is the exclusive means for calculating this scoping period. For issues to be raised in objections, they must be based on previously submitted specific written comments regarding the proposed project or activity and attributed to the objector.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the EIS. It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered.

Documents related to information in this notice are available for review at: *http://www.fs.fed.us/nepa/nepa_project_exp.php?project=5324.*

Dated: April 20, 2018.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–10029 Filed 5–10–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Commercial Use of the Woodsy Owl Symbol

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the currently approved information collection, Commercial Use of the Woodsy Owl Symbol.

DATES: Comments must be received in writing on or before July 10, 2018 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to the Office of the Conservation Education Program, National Symbols Program Manager, U.S. Forest Service, 201 14th Street SW, Mail Stop 1147, Washington, DC 20250–1147.

Comments also may be submitted via email to *ivelez@fs.fed.us.* The public may inspect comments received at the Office of Conservation Education Program, Room 1C, U.S. Forest Service, 201 14th Street SW, Washington, DC. Visitors are urged to call ahead to 202–205–5681 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Iris Velez, National Symbols Program Manager, Office of Conservation Education Program, at 202–205–5681. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title: Commercial Use of the Woodsy Owl Symbol.

OMB Number: 0596–0087.

Expiration Date of Approval: 06/30/2018.

Type of Request: Extension of a currently approved collection.

Abstract: The Woodsy Owl-Smoky Bear Act of 1974 established the Woodsy Owl symbol and slogan, authorizes the Secretary of Agriculture to manage the use of the slogan and symbol, authorizes the licensing of the symbol for commercial use, and provides for continued protection of the symbol. Part 272 of Title 36 of the Code of Federal Regulations authorizes the Chief of the Forest Service to approve commercial use of the Woodsy Owl symbol and to collect royalty fees. Commercial use includes replicating Woodsy Owl symbol or logo on items, such as tee shirts, mugs, pins, figurines, ornaments, stickers, and toys and using the image and or slogan of the icon in motion pictures, documentaries, TV, magazine stories, and books, magazines, and other for-profit paper products.

Woodsy Owl is America's symbol for the conservation of the environment. The public service campaign slogans associated with Woodsy Owl are ''Give a Hoot, Don't Pollute'' and ''Lend a Hand, Care for the Land.'' The mission statement of the Woodsy Owl's conservation campaign is to help young children discover the natural world and join in life-long actions to care for that world.

The USDA Forest Service National Symbols Program Manager will use the collected information to determine if the applicant will receive a license or renewal of an existing license and the associated royalty fees. Information collected includes, but is not limited to, tenure of business or non-profit organization, current or planned products, physical location, projected sales volume, and marketing plans. Licensees submit quarterly reports, which include:

1. A list of each item sold with the Woodsy Owl symbol.
2. Projected sales of each item.
3. The sales price of each item.
4. Total sales subject to Forest Service royalty fee.
5. Royalty fee due based on sales quantity and price.
6. Description and itemization of deductions (such as fees waived or previously paid as part of advance royalty payment).

7. The new total royalty fee the business or organization must pay after deductions.

8. The running total amount of royalties accrued in that fiscal year.

9. The typed name and signature of the business or organizational employee certifying the truth of the report.

Data gathered in this information collection are not available from other sources.

Type of Respondents: Individuals, for profit businesses and non-profit organizations.

Estimated Annual Number of Respondents: 21 licensees, of which an average of 10 respond per year.

Estimated Annual Number of Responses per Respondent: 4.

Estimated Total Annual Burden on Respondents: 20 hours.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: April 24, 2018.

Patricia Hirimi,

Acting Deputy Chief, State and Private Forestry.

[FR Doc. 2018–10028 Filed 5–10–18; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Superior National Forest; Minnesota; Application for Withdrawal

AGENCY: Forest Service, USDA.

ACTION: Notice of cancellation of preparation of an environmental impact statement.

SUMMARY: The Superior National Forest is issuing this notice to advise the public that an environmental impact statement (EIS) will no longer be prepared for the Application for Withdrawal Project. The notice of intent to prepare an EIS was published in the **Federal Register** on January 13, 2017 (82 FR 4282). An environmental asessment (EA) will be prepared in lieu of an EIS. At this time, a Forest Plan Amendment is not being prepared.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be directed to Matthew Judd, Superior National Forest Minerals Project Coordinator, via mail at 8901 Grand Ave. Pl., Duluth, MN 55808, telephone at (218) 626–4300, or email at *mjudd@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The United States Department of Agriculture, Forest Service (USFS) submitted an application on January 5, 2017 to the Secretary of the Interior proposing to withdraw lands from disposition under United States mineral and geothermal leasing laws (subject to valid existing rights) for a period of 20 years.

All the National Forest System (NFS) lands identified in this application are described in Appendix A and displayed on a map in Appendix B of the withdrawal application. This application is available upon request at the Superior National Forest office at 8901 Grand Ave. Place, Duluth, MN 55808 or online at *http://go.usa.gov/xnfQh.*

The areas described contain approximately 234,328 acres of NFS lands that overlay Federally-owned minerals in Cook, Lake, and Saint Louis Counties, Minnesota located adjacent to the Boundary Waters Canoe Area Wilderness (BWCAW) and the Boundary Waters Canoe Area Wilderness Mining Protection Area (MPA). The Forest Service will prepare an EA in lieu of an EIS because no significant environmental impacts are anticipated with the proposed action.

Lead and Cooperating Agencies

The USFS is the lead agency in preparation of the EA. The USFS has designated the Department of the Interior, Bureau of Land Management (BLM) as a cooperating agency. The BLM will independently evaluate and review the EA and any other documents needed for the Secretary of Interior to make a decision on the proposed withdrawal.

Nature of Decision To Be Made

Public scoping was conducted following the original publication of the notice of intent to prepare an EIS, and included three public listening sessions held in Duluth, Minnesota on March 16, 2017, St. Paul, Minnesota on July 17, 2017, and Virgina, Minnesota on July 25, 2017. Over 80,000 comment letters submitted during scoping represented the full range of public sentiment, from strong support to strong opposition. The Forest Service is using the information received in public comments along with a review of environmental, social and economic information to prepare the EA. The BLM is responsible for ensuring the analysis and documentation address Department of the Interior regulations. The BLM will determine if there is a Finding of No Significant Impact. The USFS expects to complete the EA in late 2018 before the mineral segregation expires in January 2019. The Secretary of Interior is the authorized official to approve a proposal for withdrawal.

Dated: March 28, 2018.

Glenn P. Casamassa,

Associate Deputy Chief, National Forest System.

[FR Doc. 2018–10030 Filed 5–10–18; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Rhode Island Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Rhode Island State Advisory Committee to the Commission will convene by conference call, on Tuesday, June 5, 2018 at 11:00 a.m. (EDT). The purpose of the meeting is to continue working on the payday loan project and if applicable vote on a work product produced for the project.

DATES: Tuesday, June 5, 2018, at 11:00 a.m. (EDT).

Public Call-In Information: Conference call number: 1–888–334–3020 and conference call ID: 8405258.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor, at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call number: 1–888–334–3020 and conference call ID: 8405258. Please be advised that before

placing them into the conference call, the conference call operator may ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number herein.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–877–8339 and providing the operator with the toll-free conference call number: 1–888–334–3020 and conference call ID: 8405258.

Members of the public are invited to submit written comments; the comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://www.facadatabase.gov/committee/meetings.aspx?cid=272;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact the Eastern Regional Office at the above phone number, email or street address.

Agenda

Tuesday, June 5, 2018 at 11:00 a.m. (EDT)

I. Welcome and Introductions
Rollcall
II. Planning Meeting
Payday Loan project
III. Other Discussion
IV. Open Comment
V. Adjournment

Dated: May 8, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–10123 Filed 5–10–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Rhode Island Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Rhode Island Advisory Committee (Committee) will hold a meeting via web conference on Tuesday, May 29, 2018, from 1:00 p.m.–2:30 p.m. EDT for the purpose of hearing public testimony from advocates on voting rights in Rhode Island. The committee will also hold a planning meeting after the web conference to vote on a work product on payday loans.

DATES: The web conference and planning meeting will be held on Tuesday, May 29, 2018, at 1:00 p.m. EDT.

Public Call Information: (audio only) Dial: 1–888–334–3020, Conference ID: 8405258.

Web Access Information: (visual only) The online portion of the meeting may be accessed through the following link: *https://cc.readytalk.com/registration/#/?meeting=y8mr4cjbbaae&campaign=2jj1fuz9esfo.*

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov* or (303) 866–1040.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll-free number (audio only) and web access link (visual only). Please use both the call-in number and the web access link in order to follow the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also submit written comments; the comments must be received at the Eastern Regional Office within 30 days following the meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425. They may be faxed to the Commission at (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7548.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://facadatabase.gov/committee/meetings.aspx?cid=272.* Please click on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's website, *https://www.usccr.gov,* or may contact the Eastern Regional Office at the above email or street address.

Agenda

I. Welcome
II. Presentation
III. Public Comment
IV. Next Steps
V. Planning Meeting to Vote on Product re: Payday Loans in RI
VI. Adjournment

Dated: May 8, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–10122 Filed 5–10–18; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Arkansas Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee

(Committee) will hold a meeting on Thursday June 28, 2018 at 12 p.m. Central time. The Committee will discuss next steps in their study of civil rights and criminal justice in the state.

DATES: The meeting will take place on Thursday June 28, 2018 at 12 p.m. Central.

Public Call Information: Dial: 877–879–6203, Conference ID: 9565984.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to these discussions. These meetings are available to the public through the above call in numbers. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 230 S Dearborn, Suite 2120, Chicago, IL 60604. They may also be faxed to the Commission at (312) 353–8324, or emailed to Corrine Sanders at *csanders@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link (*https://www.facadatabase.gov/committee/meetings.aspx?cid=236*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights in Arkansas: Criminal Justice
Future Plans and Actions
Public Comment
Adjournment

Dated: May 7, 2018.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2018–09994 Filed 5–10–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–29–2018]

Foreign-Trade Zone 198—Volusia and Flagler Counties, Florida; Application for Reorganization and Expansion Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the County of Volusia, Florida, grantee of FTZ 198, requesting authority to reorganize the zone under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR Sec. 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on May 7, 2018.

FTZ 198 was approved by the FTZ Board on December 17, 1993 (Board Order 671, 58 FR 68115, December 23, 1993). The current zone includes the following sites: *Site 1* (2,422 acres)—Daytona Beach International Airport and Daytona Beach Business Park, U.S. Route 92, Daytona; *Site 2* (625 acres)—DeLand Airport/Industrial Park, Old Daytona Road, DeLand; *Site 3* (1,304 acres)—Ormond Beach Airport/Business Park, Airport Road, Ormond Beach; *Site 4* (1,200 acres)—Flagler County Airport, State Road 100, Bunnell; and, *Site 5* (589 acres)—Pine Lakes/Palm Coast Industrial Parks, Pine Lakes Highway, Palm Coast.

The grantee's proposed service area under the ASF would be Volusia County, Florida, as described in the application. If approved, the grantee would be able to serve sites throughout the service area based on companies' needs for FTZ designation. The application indicates that the proposed service area is within and adjacent to the Daytona Beach International Airport Customs and Border Protection user-fee airport.

The applicant is requesting authority to reorganize its existing zone project under the ASF as follows: Modify Site 1 by adding new acreage and removing existing acreage due to changed circumstances (new total acreage—1,989 acres); modified Site 1 would be designated as a ''magnet'' site; and, remove Sites 2, 3, 4 and 5 due to changed circumstances. The ASF allows for the possible exemption of one magnet site from the ''sunset'' time limits that generally apply to sites under the ASF, and the applicant proposes that modified Site 1 be so exempted.

In accordance with the FTZ Board's regulations, Qahira El-Amin of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is July 10, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 25, 2018.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Qahira El-Amin at *Qahira.El-Amin@trade.gov* or (202) 482–5928.

Dated: May 7, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–10071 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–842, A–580–868, C–580–869]

Large Residential Washers From the Republic of Korea and Mexico: Initiation of Changed Circumstances Reviews, and Consideration of Revocation, in Part, of the Antidumping Duty Orders on Large Residential Washers From the Republic of Korea and Mexico and the Countervailing Duty Order on Large Residential Washers From the Republic of Korea

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based upon a request from Whirlpool Corporation (Whirlpool), the Department of Commerce (Commerce) is initiating changed circumstances reviews to consider the possible revocation, in part, of the antidumping duty (AD) orders on large residential washers (LRWs) from the Republic of Korea (Korea) and Mexico and the countervailing duty (CVD) order on LRWs from Korea with respect to LRWs that (1) have a horizontal rotational axis; (2) are front loading; and (3) have a drive train consisting, *inter alia,* of (a) a controlled induction motor and (b) a belt drive (hereinafter, FL CIM/Belt washers).

DATES: Applicable May 11, 2018.

FOR FURTHER INFORMATION CONTACT: William Miller or Ajay Menon, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202) 482–3906 or (202) 482–1993, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 15, 2013, Commerce published the AD orders on LRWs from Korea and Mexico and the CVD order on LRWs from Korea.[1] On March 22, 2018, Whirlpool requested that Commerce conduct changed circumstances reviews pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b).[2] Whirlpool expressed an interest in partially revoking the *Orders* with respect to FL CIM/Belt washers—LRWs that (1) have a horizontal rotational axis; (2) are front loading;[3] and (3) have a drive train consisting, *inter alia,* of (a) a controlled induction motor[4] and (b) a belt drive. Whirlpool acknowledged that it is unclear whether it represents substantially all of the domestic industry. Thus, Whirlpool stated that Commerce should solicit comments from other members of the domestic industry.[5] Subsequently, LG Electronics Inc. (LG) and Samsung Electronics Co., Ltd. (Samsung) both submitted comments on Whirlpool's request in which they noted that it is unclear whether Whirlpool represents ''substantially all'' of the domestic industry and requested that Commerce solicit comments.[6] We received no comments from other interested parties.

Scope of the Orders

The products covered by the *Orders* are all large residential washers and certain subassemblies thereof from Mexico and Korea.

For purposes of these *Orders,* the term ''large residential washers'' denotes all automatic clothes washing machines, regardless of the orientation of the rotational axis, except as noted below, with a cabinet width (measured from its widest point) of at least 24.5 inches (62.23 cm) and no more than 32.0 inches (81.28 cm).

Also covered are certain subassemblies used in large residential washers, namely: (1) All assembled cabinets designed for use in large residential washers which incorporate, at a minimum: (a) At least three of the six cabinet surfaces; and (b) a bracket; (2) all assembled tubs[7] designed for use in large residential washers which incorporate, at a minimum: (a) A tub; and (b) a seal; (3) all assembled baskets[8] designed for use in large residential washers which incorporate, at a minimum: (a) a side wrapper;[9] (b) a base; and (c) a drive hub;[10] and (4) any combination of the foregoing subassemblies.

Excluded from the scope are stacked washer-dryers and commercial washers. The term ''stacked washer-dryers'' denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer. The term ''commercial washer'' denotes an automatic clothes washing machine designed for the ''pay per use'' market meeting either of the following two definitions:

(1) (a) it contains payment system electronics;[11] (b) it is configured with an externally mounted steel frame at least six inches high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation); (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners;[12] *or*

(2) (a) it contains payment system electronics; (b) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation,[13] the unit cannot begin a wash cycle without first receiving a signal from a *bona fide* payment acceptance device such as an electronic credit card reader; (c) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level, or spin speed for a selected wash cycle setting; and (d) the console containing the user interface is made of steel and is assembled with security fasteners.

Also excluded from the scope are automatic clothes washing machines with a vertical rotational axis and a rated capacity of less than 3.7 cubic feet,

[1] *See Large Residential Washers from Mexico and the Republic of Korea: Antidumping Duty Orders,* 78 FR 11148 (February 15, 2013); and *Large Residential Washers from the Republic of Korea: Countervailing Duty Order,* 78 FR 11154 (February 15, 2013) (collectively, the *Orders).*

[2] *See* Letter from Whirlpool, ''Large Residential Washers from the Republic of Korea and Mexico: Request for Changed Circumstances Review,'' dated March 22, 2018.

[3] According to Whirlpool, ''front loading'' means that ''access to the basket is from the front of the washer.'' *Id.* at 1 n.1

[4] According to Whirlpool, a ''controlled induction motor'' is ''an asynchronous, alternating current, polyphase induction motor.'' *Id.* at 2 n.2.

[5] *Id.* at 6.

[6] *See* Letter from LG, ''LG Electronics' Response to Whirlpool's Request for Changed Circumstances Review,'' dated March 27, 2018, and Letter from Samsung, ''Large Residential Washers from Korea and Mexico: Response to Whirlpool's Changed Circumstances Review Request,'' dated March 29, 2018.

[7] A ''tub'' is the part of the washer designed to hold water.

[8] A ''basket'' (sometimes referred to as a ''drum'') is the part of the washer designed to hold clothing or other fabrics.

[9] A ''side wrapper'' is the cylindrical part of the basket that actually holds the clothing or other fabrics.

[10] A ''drive hub'' is the hub at the center of the base that bears the load from the motor.

[11] ''Payment system electronics'' denotes a circuit board designed to receive signals from a payment acceptance device and to display payment amount, selected settings, and cycle status. Such electronics also capture cycles and payment history and provide for transmission to a reader.

[12] A ''security fastener'' is a screw with a non-standard head that requires a non-standard driver. Examples include those with a pin in the center of the head as a ''center pin reject'' feature to prevent standard Allen wrenches or Torx drivers from working.

[13] ''Normal operation'' refers to the operating mode(s) available to end users (*i.e.,* not a mode designed for testing or repair by a technician).

as certified to the U.S. Department of Energy pursuant to 10 CFR 429.12 and 10 CFR 429.20, and in accordance with the test procedures established in 10 CFR part 430.

The products subject to these *Orders* 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 these *Orders* 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.

Proposed Revocation of the Orders

Whirlpool requests that the *Orders* be revoked with respect to all unliquidated entries of FL CIM/Belt washers. Should Commerce determine to revoke the *Orders,* in part, Whirlpool proposes that Commerce amend the scope language as follows: ''{A}lso excluded from the scope are automatic clothes washing machines that meet all of the following conditions: (1) Have a horizontal rotational axis; (2) are front loading; and (3) have a drive train consisting, *inter alia,* of (a) a controlled induction motor and (b) a belt drive.'' [14]

Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the *Orders,* in Part

Pursuant to section 751(b)(1) of the Act, Commerce will conduct a changed circumstances review upon receipt of a request from an interested party that shows changed circumstances sufficient to warrant a review of an order.[15] In accordance with 19 CFR 351.216(d), Commerce determines that the information submitted by Whirlpool constitutes sufficient evidence to conduct changed circumstances reviews of the *Orders.*

Section 782(h)(2) of the Act and 19 CFR 351.222(g)(1)(i) provide that Commerce may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order, in whole or in part. In its administrative practice, Commerce has interpreted ''substantially all'' to mean producers accounting for at least 85 percent of the total U.S. production of the domestic like product covered by the order.[16]

As discussed below, we are providing interested parties with an opportunity to address the issue of domestic industry support (*i.e.,* support by ''substantially all'' of the domestic industry) with respect to this requested partial revocation of the *Orders,* as explained below. After examining comments, if any, concerning domestic industry support, Commerce will issue the preliminary results of these changed circumstances reviews.

Public Comment

In its request, Whirlpool acknowledges that it is unclear whether the company represents substantially all of the domestic industry, and, therefore, requests that Commerce solicit comments from other members of the domestic industry.[17] Accordingly, we invite members of the domestic industry to provide comments, including their domestic production data of LRWs for 2017.[18] Other interested parties may also provide comments regarding these changed circumstances reviews, including comments concerning industry support under section 782(h) of the Act. Comments and factual information may be submitted to Commerce no later than ten days after the date of publication of this notice. Rebuttal comments and rebuttal factual information may be filed with Commerce no later than seven days after the deadline for comments and/or factual information.[19] All submissions must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[20] An electronically filed document must be received successfully in its entirety by ACCESS, by 5:00 p.m. Eastern Time on the due dates set forth in this notice.

Preliminary and Final Results of the Reviews

Commerce intends to publish in the **Federal Register** a notice of the preliminary results of these changed circumstances reviews in accordance with 19 CFR 351.221(b)(4) and (c)(3)(i), which will set forth Commerce's preliminary factual and legal conclusions. Commerce will issue its final results of these changed circumstances reviews in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.221(b)(1).

Dated: May 7, 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. 2018–10070 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–DS–P

[14] Whirlpool proposes that the following words be defined as follows: (1) ''front loading'' means that ''access to the basket is from the front of the washer;'' and (3) a ''controlled induction motor'' is ''an asynchronous, alternating current, polyphase induction motor.''

[15] *See* 19 CFR 351.216.

[16] *See, e.g., Certain Cased Pencils from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part,* 77 FR 42276 (July 18, 2012), unchanged in *Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part,* 77 FR 53176 (August 31, 2012).

[17] *See* Whirlpool Request at 6.

[18] Parties should provide the volume (in number of units) and value (in U.S. dollars) of their domestic production of LRWs for 2017.

[19] Submission of rebuttal factual information must comply with 19 CFR 351.301(b)(2).

[20] *See, generally,* 19 CFR 351.303.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–862]

Foundry Coke Products From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) order on foundry coke products (foundry coke) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, Commerce is publishing a notice of continuation of the AD order on foundry coke from China.

DATES: Applicable May 11, 2018.

FOR FURTHER INFORMATION CONTACT: Paul Walker, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; Telephone: 202.482.0413.

SUPPLEMENTARY INFORMATION:

Background

On July 31, 2001, Commerce published in the **Federal Register** its

final determination in the less-than-fair value investigation of foundry coke from China.[1] On September 17, 2001, Commerce published the *Order* on foundry coke from China.[2] On May 1, 2017, the Department published the notice of initiation of the third sunset review of the Order, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[3] Commerce conducted the sunset review on an expedited basis, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), because it received a complete and adequate response from domestic interested parties, but no substantive responses from respondent interested parties.[4] As a result of its expedited sunset review, Commerce determined that revocation of the *Order* would likely lead to a continuation or recurrence of dumping.[5] The Department, therefore, notified the ITC of the magnitude of the margins likely to prevail should the *Order* be revoked. On April 24, 2018, the ITC published notice of its determination, pursuant to section 751(c) of the Act, that revocation of the AD order on foundry coke from China would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[6]

Scope of the Order

The product covered under the order is coke larger than 100 mm (4 inches) in maximum diameter and at least 50 percent of which is retained on a 100 mm (4 inch) sieve, of a kind used in foundries. The foundry coke products subject to the order are currently classifiable under subheading 2704.00.0011 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive.[7]

Continuation of the Order

As a result of the determinations by Commerce and the ITC that revocation of the *Order* would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Order* on foundry coke from China. U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, Commerce intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: May 7, 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. 2018–10068 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Final Determination or Sales at Less Than Fair Value: Foundry Coke Products from the People's Republic of China,* 66 FR 39487 (July 31, 2001).

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Foundry Coke Products from The People's Republic of China,* 66 FR 48025 (September 17, 2001) (*Order*).

[3] *See Initiation of Five-Year (Sunset) Review,* 82 FR 20314 (May 1, 2017).

[4] *See* Domestic Producers' submission, ''Foundry Coke from China, Third Sunset Review: Substantive Response to Notice of Initiation of Sunset Review,'' dated May 31, 2017.

[5] *See Foundry Coke Products from the People's Republic of China Final Results of the Expedited Sunset Reviews of the Antidumping Duty Order,* 82 FR 41598 (September 1, 2017).

[6] *See Foundry Coke from China (No. 731–TA–891 (Third Review)),* 83 FR 17849 (April 24, 2018).

[7] *See Foundry Coke Products from the People's Republic of China,* 77 FR 34012 (June 8, 2012).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–838]

Clad Steel Plate From Japan: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this expedited sunset review, Commerce finds that revocation of the antidumping duty order would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

DATES: Applicable May 11, 2018.

FOR FURTHER INFORMATION CONTACT: David Crespo, 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) 482–3693.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2018, Commerce published the notice of initiation of the fourth sunset review of the antidumping duty order on clad steel plate from Japan[1] pursuant to section 751(c) of the Act.[2] On January 16, 2018, Commerce received a notice of intent to participate from DMC Global Inc., dba NobelClad (DMC), a domestic interested party, within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] DMC claimed interested party status under section 771(9)(C) of the Act as a producer of clad steel plate in the United States.

Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018. As a result, the revised deadline for the final results of this review is now May 7, 2018.[4]

On January 31, 2018, Commerce received an adequate substantive response to the notice of initiation from DMC within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[5] We received no substantive responses from respondent interested parties with respect to the order covered by this sunset review.

On February 23, 2018, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[6] As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the

[1] *See Notice of Antidumping Order: Clad Steel Plate from Japan,* 61 FR 34421 (July 2, 1996).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 83 FR 100 (January 2, 2018).

[3] *See* Letter ''Clad Steel Plate from Japan—Five-Year ('Sunset') Review of Antidumping Duty Order—Notice of Intent to Participate,'' dated January 16, 2018.

[4] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated January 23, 2018. All deadlines in this segment of the proceeding affected by the closure of the Federal Government have been extended by three days.

[5] *See* Letter ''Clad Steel Plate from Japan: Five-Year ('4th Sunset') Review of Antidumping Duty Order—DMC Global Inc. dba NobelClad's Substantive Response to Notice of Initiation,'' dated January 31, 2018.

[6] *See* Letter re: ''Sunset Reviews Initiated on January 2, 2018,'' dated February 23, 2018.

antidumping duty order on clad steel plate from Japan.

Scope of the Order

The scope of the order is all clad[7] steel plate of a width of 600 millimeters (mm) or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight.

Stainless clad steel plate is manufactured to American Society for Testing and Materials (ASTM) specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive.

Clad steel plate within the scope of the order is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) 7210.90.10.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the Issues and Decision Memorandum,[8] which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memorandum are the likelihood of continuation or recurrence of dumping and the magnitude of the dumping margin likely to prevail if the order were revoked. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://acess.trade.gov,* and to all in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Review

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to the continuation or recurrence of dumping at weighted-average dumping margins up to 118.53 percent.[9]

Notification to Interested Parties

This notice also 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. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the final results and this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: May 4, 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. 2018–10069 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–DS–P

[7] Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (*e.g.,* by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition of superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (*e.g.,* electrocladding), in which the cladding metal (nickel, chromium, *etc.*) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling. *See* Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV)(C)(2)(e).

[8] *See* Memorandum ''Issues and Decision Memorandum for the Expedited Fourth Sunset Review of the Antidumping Duty Order on Clad Steel Plate from Japan,'' dated concurrently with this notice (Issues and Decision Memorandum).

[9] Commerce assigned this margin of 118.53 percent to The Japan Steel Company and ''All Others'' in the less than fair value investigation on the basis of adverse facts available using the rate contained in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Clad Steel Plate from Japan,* 61 FR 21158, 21159 (May 9, 1996).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG106

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Ketchikan Berth IV Expansion Project

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 Ketchikan Dock Company (KDC) for authorization to take marine mammals incidental to the Ketchikan Berth IV expansion project in Ketchikan, Alaska. 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 June 11, 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.molineaux@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 *https://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: Jonathan Molineaux, 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: *https://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.

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).

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.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA qualifies to be categorically excluded from further NEPA review.

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 February 13, 2018, NMFS received a request from the KDC for an IHA to take marine mammals incidental to construction activities associated with the Ketchikan Berth IV Expansion Project. The IHA application was determined adequate and complete on March 28, 2018. The KDC's request is for take of eight species of marine mammals by Level B harassment and Level A harassment of a small number of harbor porpoises and harbor seals. Neither the KDC nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

The KDC proposes to expand Berth IV, its dock adjacent to downtown Ketchikan, Alaska, located in East Tongass Narrows, in order to accommodate a new fleet of large cruise ships that are expected to reach Alaska in the summer of 2019.

The expansion would include the removal of some existing piles and structures and the installation of new piles and structures. All pile driving and removal would take place at the existing dock facility and is expected to occur over the course of 20 days (not necessarily consecutive). The proposed project would occur in marine waters that support several marine mammal species. The pile driving, pile removal, and drilling activities associated with the project may result in behavioral harassment (Level B harassment and small numbers of Level A harassment) of marine mammal species.

The purpose of this project is to reconfigure Berth IV so that it can accommodate larger cruise ships. This project is needed because the existing Berth IV cannot support the modern fleet of larger cruise ships. Once the project is constructed Berth IV will be able to accommodate these large cruise ships.

Dates and Duration

Construction is expected to take 3–4 months beginning in Fall 2018. While construction is mostly likely to begin in October of 2018 and complete in January of 2019, depending on the start date, construction could extend into March of 2019. Regardless of start date, construction will occur within a four-month (maximum) work window.

Pile removal and installation is expected to occur for a total of approximately 36 hours over 20 days (not necessarily consecutive days). Please see Table 2 for the specific amount of time required to install and remove piles.

The total construction duration accounts for the time required to mobilize materials and resources and construct the project. The duration also accounts for potential delays in material deliveries, equipment maintenance, inclement weather, and shutdowns that may occur to prevent impacts to marine mammals.

Specific Geographic Region

The City of Ketchikan is located in Southeast Alaska. Berth IV is located adjacent to downtown Ketchikan on the shore of East Tongass Narrows (see Figures 1, 2, and 3 of IHA Application). The berth is part of the Port of Ketchikan, an active marine commercial and industrial area.

Berth IV is located within the Ketchikan Gateway Borough on Revillagigedo Island in Southeast Alaska; T75S, R90E, S25, Copper River Meridian, USGS Quadrangle KET B5; Latitude 55°344′ N and Longitude—131°656′ W. The project is located within Tongass Narrows. Major waterbodies near the area include the Clarence Strait to the north, the Revillagigedo Channel to the south, Nichols Passage to the west, and George Inlet to the east. Berth IV's expansion

would take place at the existing dock facility.

Detailed Description of Specific Activity

The KDC proposes to expand Berth IV by replacing the existing floating barge and float with a larger pontoon dock and larger small craft float, and by expanding the existing mooring structures (see Figure 4 of IHA Application). The project would:

- Permanently remove the existing floating barge dock, float, and their associated three dolphins comprised of two 24-inch, six 30-inch, and four 36-inch diameter steel piles;
- Temporarily remove the existing transfer bridge, and then reinstall it on the new facility;
- Install sixteen temporary 30-inch diameter steel piles as templates to guide proper installation of permanent piles (these piles would be removed prior to project completion);
- Install seventeen permanent 48-inch diameter piles and one permanent 30-inch diameter pile to support a new 285 feet (ft) by 40 ft by 10 foot floating pontoon dock, its attached 220 ft by 12 ft small craft float, and mooring structures; and
- Install bull rail, floating fenders, mooring cleats, and three mast lights. (Note: these components would be installed out of the water.)

During the pile driving, pile removal and drilling activities, the following equipment will be used:

- A Vibratory Hammer: ICE 44B/12,450 pounds static weight;
- A Diesel Impact Hammer: Delmag D46/Max Energy 107,280 ft-pounds (lb);
- A Drilled shaft drill: Holte 100,000 ft-lb. top drive with down-the-hole (DTH) hammer and bit; and
- A Socket drill: Holte 100,000 ft-lb. top drive with DTH hammer and under-reamer bit.

Materials and equipment, including the dock, would be transported to the project site by barge. While work is conducted in the water, anchored barges would be used to stage construction materials and equipment. Twenty-five-ft skiffs with 250 horsepower motors would be used to support dock construction.

In-water construction would begin with the removal of existing piles followed by pile installation. Table 1 below provides the activity type and a conservative estimate of the specific amount of time required to remove and install piles.

TABLE 1—PILE DRIVING CONSTRUCTION SUMMARY

Description	Existing pile removal	Temporary pile installation	Temporary pile removal	Permanent pile installation	Permanent pile installation	Max installation/removal per day
Project Component						
Pile Diameter and Type	24, 30, and 36-inch steel.	30-inch steel	30-inch steel	30-inch steel	48-inch steel.	
# of Piles	2, 6, and 4 respectively; 12 total.	16	16	1	17.	
Vibratory Pile Driving						
Max # of Piles Vibrated Per Day	4	4	4	1	2	4 temporary or 2 permanent.
Vibratory Time Per Pile	15 minutes	30 minutes	10 minutes	1 hour	1 hour.	
Vibratory Time per day	1 hour	2 hours	40 minutes	1 hour	2 hours	2 hours.
Vibratory Time Total	3 hours	8 hours	2 hours 40 minutes.	1 hour	17 hours.	
Impact Pile Driving						
Max # of Piles Impacted Per Day.	0	0	0	0	3	3.
# of Strikes Per Pile	0	0	0	0	200 strikes	600 strikes.
Impact Time Per Pile	0	0	0	0	5 minutes.	
Impact Time per Day	0	0	0	0	15 minutes	15 minutes.
Impact Time Total	0	0	0	0	1 hour 25 minutes.	
Socketing Pile Installation (Drilling)						
Max # of Piles Socketed per Day.	0	0	0	1	0	1.
Socket Time Per Pile	0	0	0	0	3 hours.	
Socket Time per Day	0	0	0	0	3 hours	3 hours.
Socket Time Total	0	0	0	0	3 hours.	

Removal of Existing Piles

The contractor would attempt to direct pull existing piles; if those efforts prove to be ineffective, existing piles would be removed with a vibratory hammer.

Installation and Removal of Temporary Piles

Temporary 30-inch diameter piles would be installed and removed with a vibratory hammer.

Installation of Permanent Piles

The single permanent 30-inch diameter pile would be installed through approximately 15 ft of sand and gravel with a vibratory hammer. Then the pile will be secured into underlying bedrock with conventional socketing means using a down-the-hole hammer

and under-reamer bit to drill a hole into the bedrock and then socket the pile into the bedrock. Socket depths are expected to be approximately 20 ft (as determined by the geotechnical engineer) and take approximately 3 hours. (Note, this socketing method can also be referred to as down the hole drilling. We refer to it as socketing throughout this document to clarify this method from anchoring, which also uses a drill.)

Permanent 48-inch diameter piles would be driven through approximately 15 ft of sand and gravel with a vibratory hammer and impact driven into bedrock. After being driven with an impact hammer, the piles will be secured with rock anchors. To install the rock anchors, a drill will be placed inside the hallow 48-inch diameter pile and will down into the bedrock. During this anchor drilling, the 48-inch pile will not be not touched by the drill, therefore, anchoring will not generate steel-on-steel hammering noise (noise that is generated during socketing).[1] Each anchor will take approximately 2.5 hours to complete.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the KDC's 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 2 lists all species with expected potential for occurrence within the vicinity of Ketchikan Berth IV 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 the 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.

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 managed stocks in this region are assessed in NMFS's U.S. Alaska SARs (Muto 2017a). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (Muto 2017a), Towers *et al.,* 2015 (solely for northern resident killer whales), and draft 2017 SARs (Muto 2017b) (available online at: *www.nmfs.noaa.gov/pr/sars/draft.htm*).

TABLE 2—MARINE MAMMALS THAT COULD OCCUR IN THE PROJECT AREA DURING THE SPECIFIED ACTIVITY

Common name	Scientific name	MMPA stock	ESA/ MMPA status; strategic (Y/N) [1]	Stock abundance Nbest, (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae:						
Humpback whale	*Megaptera novaeangliae*	Central North Pacific	E, D, Y	10,103 (0.3; 7,890; 2006)	83	21
Minke whale	*Balaenoptera acutorostrata*	Alaska	-, N	N.A	N.A.	N.A.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orcinus orca*	Alaska Resident	-, N	2,347 (N.A.; 2,347; 2012) [4]	23.4	1
		West Coast Transient	-, N	243 (N.A, 243, 2009) [4]	2.4	1
		Northern Resident	-, N	290 (N.A; 290; 2014) [6]	1.96	0
Pacific white-sided dolphin	*Lagenorhynchus obliquidens*	North Pacific	-/-; N	26,880 (N.A.; N.A.; 1990)	N.A.	0
Family Phocoenidae:						
Harbor porpoise	*Phocoena phocoena*	Southeast Alaska	-, Y	975 (0.10; 896; 2012) [5]	[5] 8.9	[5] 34
Dall's porpoise	*Phocoenoides dalli*	Alaska	-, N	83,400	N.A.	38
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
Steller sea lion	*Eumatopia jubatus*	Eastern U.S	-,-, N	41,638 (N/A; 41,638; 2015).	2,498	108
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	Clarence Strait	-, N	31,634 (N.A.; 29,093; 2011).	1,222	41

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

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable (N/A).

[1] In rock anchoring, the DTH drill only hits the bedrock and, for this effort, the 48-inch pile will act as a casing to isolate the drill noise. The process of anchoring has been used on many projects in Alaska with 8-inch diameter anchors (including the recently permitted Haines Ferry Terminal). Due to the significant loads generated from cruise ship berthing, the Ketchikan Berth IV project will use 30-inch diameter rock anchors.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike).
[4] N is based on counts of individual animals identified from photo-identification catalogs.
[5] In the SAR for harbor porpoise (NMFS 2017), NMFS identified population estimates and PBR for porpoises within inland Southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative). The calculated PBR is considered unreliable for the entire stock because it is based on estimates from surveys of only a portion (the inside waters of Southeast Alaska) of the range of this stock as currently designated. The Annual M/SI is for the entire stock, including coastal waters.
[6] Abundance estimates obtained from Towers *et al.,* 2015.

All species that could potentially occur in the proposed survey areas are included in Table 2. As described below, all eight species (with ten managed stocks) temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have proposed authorizing it. In addition, northern sea otters may be found in Ketchikan. However, sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

Pinnipeds in the Activity Area

Steller Sea Lion

The Steller sea lion is the largest of the eared seals, ranging along the North Pacific Rim from northern Japan to California, with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands. Steller sea lions were listed as threatened range-wide under the ESA on November 26, 1990 (55 FR 49204). Subsequently, NMFS published a final rule designating critical habitat for the species as a 20 nautical mile buffer around all major haulouts and rookeries, as well as associated terrestrial, air and aquatic zones, and three large offshore foraging areas (58 FR 45269; August 27, 1993). In 1997, NMFS reclassified Steller sea lions as two distinct population segments (DPS) based on genetic studies and other information (62 FR 24345; May 5, 1997). Steller sea lion populations that primarily occur west of 144° W (Cape Suckling, Alaska) comprise the western DPS (wDPS), while all others comprise the eastern DPS (eDPS); however, there is regular movement of both DPSs across this boundary (Jemison *et al.,* 2013). Upon this reclassification, the wDPS was listed as endangered while the eDPS remained as threatened (62 FR 24345; May 5, 1997) and in November 2013, the eDPS was delisted (78 FR 66140). Only the eDPS considered in this proposed IHA.

Steller sea lions are common in the inside waters of southeastern Alaska. They are residents of the project vicinity and are common year-round in the action area (Freitag 2017). Critical habitat has been defined in Southeast Alaska at major haulouts and major rookeries (50 CFR 226.202). The nearest rookery to action area is Forrester Island, and the nearest major haulouts are at Timbered Island and Cape Addington (NMFS 1993). All three sites are about 130 kilometers west across Klawock Island from Ketchikan. Steller sea lions are known to haul out on land, docks, buoys, and navigational markers, however, there are no established haulout sites in Tongass Narrows (HDR 2003) and other haulout sites are far beyond in-air noise disturbance threshold for hauled-out pinnipeds as described in Section 1.3 of the IHA application. Grindall Island, 12 miles west of the northern tip of Gravina Island, is a year-round sea lion haulout but not a rookery, and appears to be the haulout area nearest the project area.

Harbor Seal

Harbor seals range from Baja California north along the west coasts of Washington, Oregon, California, British Columbia, and Southeast Alaska; west through the Gulf of Alaska, Prince William Sound, and the Aleutian Islands; and north in the Bering Sea to Cape Newenham and the Pribilof Islands. They haul out on rocks, reefs, beaches, and drifting glacial ice, and feed in marine, estuarine, and occasionally fresh waters. Harbor seals are generally non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (Muto, 2017a).

Harbor seals in Alaska are partitioned into 12 separate stocks based largely on genetic structure: (1) The Aleutian Islands stock,(2) the Pribilof Islands stock, (3) the Bristol Bay stock, (4) the North Kodiak stock, (5) the South Kodiak stock, (6) the Prince William Sound stock, (7) the Cook Inlet/Shelikof stock, (8) the Glacier Bay/Icy Strait stock, (9) the Lynn Canal/Stephens Passage stock, (10) the Sitka/Chatham stock, (11) the Dixon/Cape Decision stock, and (12) the Clarence Strait stock. Only the Clarence Strait stock stock is considered in this proposed IHA. The range of this stock includes the east coast of Prince of Wales Island from Cape Chacon north through Clarence Strait to Point Baker and along the east coast of Mitkof and Kupreanof Islands north to Bay Point, including Ernest Sound, Behm Canal, and Pearse Cana (Muto, 2017a).

Harbor seals are common in the inside waters of southeastern Alaska. They are residents of the action area and can occur on any given day in the action area, although they tend to be more abundant in the summer. There are no known haul outs located close to the site where pile installation and removal will occur (Freitag 2017).

Cetaceans in the Activity Area

Humpback Whale

The humpback whale is distributed worldwide in all ocean basins. In winter, most humpback whales occur in the subtropical and tropical waters of the Northern and Southern Hemispheres, and migrate to high latitudes in the summer to feed. The historic summer feeding range of humpback whales in the North Pacific encompassed coastal and inland waters around the Pacific Rim from Point Conception, California, north to the Gulf of Alaska and the Bering Sea, and west along the Aleutian Islands to the Kamchatka Peninsula and into the Sea of Okhotsk and north of the Bering Strait (Johnson and Wolman 1984).

Under the MMPA, there are three stocks of humpback whales in the North Pacific: (1) The California/Oregon/Washington and Mexico stock, consisting of winter/spring populations in coastal Central America and coastal Mexico which migrate to the coast of California to southern British Columbia in summer/fall; (2) the central North Pacific stock, consisting of winter/spring populations of the Hawaiian Islands which migrate primarily to northern British Columbia/Southeast Alaska, the Gulf of Alaska, and the Bering Sea/Aleutian Islands; and (3) the western North Pacific stock, consisting of winter/spring populations off Asia which migrate primarily to Russia and the Bering Sea/Aleutian Islands. The central north Pacific stock is the only stock that is found near the project activities.

On September 8, 2016, NMFS published a final rule dividing the globally listed endangered species into 14 DPSs, removing the worldwide species-level listing, and in its place listing four DPSs as endangered and one DPS as threatened (81 FR 62259; effective October 11, 2016). Two DPSs (Hawaii and Mexico) are potentially present within the action area. The Hawaii DPS is not listed and the Mexico DPS is listed as threatened under the

ESA. The Hawaii DPS is estimated to contain 11,398 animals where the Mexico DPS is estimated to contain 3,264 animals.

The humpback whales that forage throughout British Colombia and Southeast Alaska undertake seasonal migrations from their tropical calving and breeding grounds in winter to their high- latitude feeding grounds in summer. They may be seen at any time of year in Alaska, but most animals winter in temperate or tropical waters near Hawaii. In the spring, the animals migrate back to Alaska where food is abundant.

Within Southeast Alaska, humpback whales are found throughout all major waterways and in a variety of habitats, including open-ocean entrances, open-strait environments, near-shore waters, area with strong tidal currents, and secluded bays and inlets. They tend to concentrate in several areas, including northern Southeast Alaska. Patterns of occurrence likely follow the spatial and temporal changes in prey abundance and distribution with humpback whales adjusting their foraging locations to areas of high prey density (NMFS 2012).

Humpback whales may be found in and around Gravina Island in the Tongass Narrows and Revillagigedo Channel at any given time. Humpback whales are most likely to occur in the action area during periods of seasonal prey aggregations which typically occur in spring and can occur in summer and fall (Freitag 2017). Herring salmon, eulachon, and euphausiids (krill) are among the species that congregate ephemerally (HDR 2003). When humpback whales come into the Narrows to feed, they often stay in the channel for a few days at a time (Freitag 2017). While many humpback whales migrate to tropical calving and breeding grounds in winter, they have been observed in Southeast Alaska in all months of the year (Straley 2017). Given their widespread range and their opportunistic foraging strategies, humpback whales may be in the action area year-round during the proposed project activities.

Minke Whale

Minke whales are found throughout the northern hemisphere in polar, temperate, and tropical waters. In the North Pacific, minke whales occur from the Bering and Chukchi seas south to near the Equator (Leatherwood *et al.,* 1982). In Alaska, the minke whale diet consists primarily of euphausiids and walleye pollock. Minke whales are generally found in shallow, coastal waters within 200 meters of shore (Zerbini *et al.,* 2006) and are usually solitary or in small groups of 2 to 3. Rarely, loose aggregations of up to 400 animals have been associated with feeding areas in arctic latitudes. In Alaska, seasonal movements are associated with feeding areas that are generally located at the edge of the pack ice (NMFS 2014). Surveys in southeast Alaska have consistently identified individuals throughout inland waters in low numbers (Dahlheim *et al.,* 2009).

Minke whales are rare in the action area, but they could be encountered during any given day of dock construction. Minke whales do come into Herring Cove in George Inlet, approximately 5 kilometers north of the action area, to feed (Freitag 2017). Minke whales are usually sighted individually or in small groups of 2–3, but there are reports of loose aggregations of hundreds of animals (NMFS 2018).

Killer Whale

Killer whales have been observed in all the world's oceans, but the highest densities occur in colder and more productive waters found at high latitudes (NMFS 2016a). Killer whales occur along the entire Alaska coast, in British Columbia and Washington inland waterways, and along the outer coasts of Washington, Oregon, and California (Muto *et al.,* 2017a).

Based on data regarding association patterns, acoustics, movements, and genetic differences, eight killer whale stocks are now recognized within the Pacific U.S. Exclusive Economic Zone (EEZ). This proposed IHA considers only the Alaska resident stock, northern resident and the west coast transient, all other stocks occur outside the geographic area under consideration (Muto *et al.,* 2017a).

Pacific White-Sided Dolphin

Pacific white-sided dolphins are a pelagic species. They are found throughout the temperate North Pacific Ocean, north of the coasts of Japan and Baja California, Mexico. (Muto *et al.* 2016). They are most common between the latitudes of 38° N and 47° N (from California to Washington). The distribution and abundance of Pacific white-sided dolphins may be affected by large-scale oceanographic occurrences, such as El Niño and by underwater acoustic deterrent devices (NMFS 2018a).

Pacific white-sided dolphins are rare action area, because they are pelagic and prefer more open water habitats than are found in Tongass Narrows and Revillagigedo Channel, but they could be encountered during any given day of dock construction (Freitag 2017). Pacific-white sided dolphins have been observed in Alaska waters in groups ranging from 20 to 164 animals, with the sighting of 164 animals occurring in Southeast Alaska near Dixon Entrance (Muto *et al.,* 2016a).

Harbor Porpoise

The harbor porpoise inhabits temporal, subarctic, and arctic waters. In the eastern North Pacific, harbor porpoises range from Point Barrow, Alaska, to Point Conception, California. Harbor porpoise primarily frequent coastal waters and occur most frequently in waters less than 100 m deep (Hobbs and Waite 2010). They may occasionally be found in deeper offshore waters.

In Alaska, harbor porpoises are currently divided into three stocks, based primarily on geography: (1) The Southeast Alaska stock—occurring from the northern border of British Columbia to Cape Suckling, Alaska, (2) the Gulf of Alaska stock—occurring from Cape Suckling to Unimak Pass, and (3) the Bering Sea stock—occurring throughout the Aleutian Islands and all waters north of Unimak Pass. Only the Southeast Alaska stock is considered in this proposed IHA because the other stocks are not found in the geographic area under consideration.

There are no subsistence use of this species; however, entanglement in fishing gear contributes to human-caused mortality and serious injury. Muto *et al.* (2017a) also reports harbor porpoise are vulnerable to physical modifications of nearshore habitats resulting from urban and industrial development (including waste management and nonpoint source runoff) and activities such as construction of docks and other over-water structures, filling of shallow areas, dredging, and noise (Linnenschmidt *et al.,* 2013). Near the project area, harbor porpoises are more common in open waters on the outside of Gravina Island; however, they are known to pass through Tongass Narrows and Revillagigedo Channel year-round (Freitag 2017).

Dall's Porpoise

Dall's porpoise are widely distributed across the entire North Pacific Ocean. They are found over the continental shelf adjacent to the slope and over deep (2,500+ meters) oceanic waters (Hall 1979). They have been sighted throughout the North Pacific as far north as 65° N (Buckland *et al.,* 1993) and as far south as 28° N in the eastern North Pacific (Leatherwood and Fielding 1974). The only apparent distribution gaps in Alaska waters are upper Cook

Inlet and the shallow eastern flats of the Bering Sea. Throughout most of the eastern North Pacific they are present during all months of the year, although there may be seasonal onshore-offshore movements along the west coast of the continental United States (Loeb 1972, Leatherwood and Fielding 1974) and winter movements of populations out of areas with ice such as Prince William Sound (Hall 1979).

Dall's porpoises are seen infrequently in the action area, but they could be encountered during any given day of dock construction. In the Ketchikan vicinity, Dall's porpoises typically occur in groups of 10–15 animals, with an estimated maximum group size of 20 animals. Dall's porpoises have been observed passing through the action area 0–1 times a month (Freitag 2017).

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 decibel (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 functional 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 hertz (Hz) and 35 kilohertz (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;
- *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;
- *Pinnipeds in water; Otariidae (eared seals):* Generalized hearing is estimated to occur between 60 Hz and 39 kHz.

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Eight marine mammal species (six cetacean and two pinniped (one otariid and one phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, two are classified as low-frequency cetaceans (*i.e.,* all mysticete species), two are classified as a mid-frequency cetacean (*i.e.,* killer whale and Pacific white-sided dolphin), and two are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Dall's porpoise).

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

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 Hz or cycles per second. Wavelength is the distance between two peaks of a sound wave; lower frequency sounds have longer wavelengths than higher frequency sounds. Amplitude is the height of the sound pressure wave or the 'loudness' of a sound and is typically measured using the 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 one 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 all underwater sound levels in this document are referenced 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 they may be accounted for 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 kilohertz (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.
- *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.

Description of Sound Sources

In-water construction activities associated with the project would include impact pile driving, vibratory pile driving and removal, and drilling. The sounds produced by these activities fall into one of two general sound types: Impulsive and non-impulsive (defined in the following). 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; ANSI 2005) and occur either as isolated events or repeated in some succession. Impulsive sounds are all characterized by 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.

Non-impulsive sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or non-continuous (ANSI 1995; NIOSH 1998). Some of these non-impulsive sounds can be transient signals of short duration but without the essential properties of impulses (*e.g.,* rapid rise time). Examples of non-impulsive sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Impact hammers operate by repeatedly dropping a heavy piston onto a pile to drive the pile into the substrate. Sound generated by impact hammers is characterized by rapid rise times and high peak levels, a potentially injurious combination (Hastings and Popper 2005). Vibratory hammers install piles by vibrating them and allowing the weight of the hammer to push them into the sediment. Vibratory hammers produce significantly less sound than impact hammers. Peak SPLs may be 180 dB or greater, but are generally 10 to 20 dB lower than SPLs generated during impact pile driving of the same-sized pile (Oestman *et al.,* 2009). Rise time is slower, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (Nedwell and Edwards 2002; Carlson *et al.,* 2005). Drilling to insert the steel piles (not for tension anchors) will be operated by a down-hole hammer (also known as socket drilling). A down-hole hammer is a drill bit that drills through the bedrock using an impulse mechanism that functions at the bottom of the hole. This impulsive bit breaks up rock to allow removal of debris and insertion of the pile. The head extends so that the drilling takes place below the pile. The impulsive sounds produced by the hammer method are continuous and reduces sound attenuation because the noise is primarily contained within the steel pile and below ground rather than impact hammer driving methods which occur at the top of the pile (R&M 2016).

Acoustic Impacts

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; Gotz *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 KDC's construction 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.,* permanent hearing impairment, certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that KDC's 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, 2005b). 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 dB above a 40-dB threshold shift approximates PTS onset; *e.g.,* Kryter *et al.,* 1966; Miller, 1974 found that inducing mild TTS (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 impulsive sounds (such as impact pile driving sounds received close to the source) 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.

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 a 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 (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) 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). In general, harbor seals (Kastak *et al.,* 2005; Kastelein *et al.,* 2012a) and harbor porpoises (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b) have a lower TTS onset than other measured pinniped or cetacean species. Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. 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).

In addition to PTS and TTS, there is a potential for 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. These impacts can 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). KDC's activities do not involve the use of devices such as explosives or mid-frequency active sonar that are associated with these types of effects.

When a live or dead 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 are 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.

Behavioral Effects

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 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-impulsive 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, let alone 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 (*Eubalaena glacialis*) 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 because 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 (*Eschrictius robustus*) 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.

Stress 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, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, 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 (*e.g.,* 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).

Acoustic Effects, Underwater

Potential Effects of DTH drilling and Pile Driving—The effects of sounds from DTH drilling and pile driving might 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.,* 2003; Nowacek *et al.,* 2007; Southall *et al.,* 2007). The effects of pile driving or drilling on marine mammals are

dependent on several factors, including the type and depth of the animal; the pile size and type, and the intensity and duration of the pile driving or drilling sound; the substrate; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. Impacts to marine mammals from pile driving and DTH drilling activities are expected to result primarily from acoustic pathways. As such, the degree of effect is intrinsically related to the frequency, received level, and duration of the sound exposure, which are in turn influenced by the distance between the animal and the source. The further away from the source, the less intense the exposure should be. The substrate and depth of the habitat affect the sound propagation properties of the environment. In addition, substrates that are soft (*e.g.,* sand) would absorb or attenuate the sound more readily than hard substrates (*e.g.,* rock), which may reflect the acoustic wave. Soft porous substrates would also likely require less time to drive the pile, and possibly less forceful equipment, which would ultimately decrease the intensity of the acoustic source.

In the absence of mitigation, impacts to marine species could be expected to include physiological and behavioral responses to the acoustic signature (Viada *et al.,* 2008). Potential effects from impulsive sound sources like pile driving can range in severity from effects such as behavioral disturbance to temporary or permanent hearing impairment (Yelverton *et al.,* 1973). Due to the nature of the pile driving sounds in the project, behavioral disturbance is the most likely effect from the proposed activity. Marine mammals exposed to high intensity sound repeatedly or for prolonged periods can experience hearing threshold shifts. PTS constitutes injury, but TTS does not (Southall *et al.,* 2007). Due to the use of pile caps and shutdown procedures discussed in detail in the Proposed Mitigation Section, it is highly unlikely for PTS or TTS to occur.

Non-Auditory Physiological Effects

Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. In general, little is known about the potential for pile driving or removal to cause auditory impairment or other physical effects in marine mammals. Available data suggest that such effects, if they occur at all, would presumably be limited to short distances from the sound source and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007) or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of pile driving, including some odontocetes and some pinnipeds, are especially unlikely to incur auditory impairment or non-auditory physical effects.

Disturbance Reactions

Responses to continuous sound, such as vibratory pile installation, have not been documented as well as responses to impulsive sounds. With both types of pile driving, it is likely that the onset of pile driving 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 (Richardson *et al.,* 1995): 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); avoidance of areas where sound sources are located; and/or flight responses (*e.g.,* pinnipeds flushing into water from haulouts or rookeries). Pinnipeds may increase their haul-out time, possibly to avoid in-water disturbance (Thorson and Reyff 2006). If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals, and if so potentially on the stock or species, could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could 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);
- Longer-term habitat abandonment due to loss of desirable acoustic environment; and
- Longer-term 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. The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. Because sound generated from in-water pile driving and removal and DTH drilling is mostly concentrated at low-frequency ranges, it may have less effect on high frequency echolocation sounds made by porpoises. The most intense underwater sounds in the proposed action are those produced by impact pile driving. Given that the energy distribution of pile driving covers a broad frequency spectrum, sound from these sources would likely be within the audible range of marine mammals present in the project area. Impact pile driving activity is relatively short-term, with rapid impulsive sounds occurring for approximately fifteen minutes per pile. The probability for impact pile driving resulting from this proposed action masking acoustic signals important to the behavior and survival of marine mammal species is low. Vibratory pile driving is also relatively short-term, with rapid oscillations occurring for approximately one and a half hours per pile. It is possible that vibratory pile driving resulting from this proposed action may mask acoustic signals important to the behavior and survival of marine mammal species, but the short-term duration and limited affected area would result in insignificant impacts from masking. Any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for DTH drilling and vibratory and impact pile driving, and which

have already been taken into account in the exposure analysis.

Acoustic Effects, Airborne

Pinnipeds that occur near the project site could be exposed to airborne sounds associated with pile driving and removal and DTH drilling that have the potential to cause behavioral harassment, depending on their distance from pile driving activities. Cetaceans are not expected to be exposed to airborne sounds that would result in harassment as defined under the MMPA.

Airborne noise will primarily be an issue for pinnipeds that are swimming or hauled out near the project site within the range of noise levels elevated above the acoustic criteria. We recognize that pinnipeds in the water could be exposed to airborne sound that may result in behavioral harassment when looking with their heads above water. Most likely, airborne sound would cause behavioral responses similar to those discussed above in relation to underwater sound. For instance, anthropogenic sound could cause hauled-out pinnipeds to exhibit changes in their normal behavior, such as reduction in vocalizations, or cause them to temporarily abandon the area and move further from the source. However, these animals would previously have been 'taken' because of exposure to underwater sound above the behavioral harassment thresholds, which are in all cases larger than those associated with airborne sound. Thus, the behavioral harassment of these animals is already accounted for in these estimates of potential take. Multiple instances of exposure to sound above NMFS' thresholds for behavioral harassment are not believed to result in increased behavioral disturbance, in either nature or intensity of disturbance reaction. Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Anticipated Effects on Habitat

The proposed activities at the project area would not result in permanent negative impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish and may affect acoustic habitat (see masking discussion above). There are no known foraging hotspots or other ocean bottom structure of significant biological importance to marine mammals present in the marine waters of the project area during the construction window. The project area is located in an industrial and commercial shipping marina. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The primary potential acoustic impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal and drilling in the area. However, other potential impacts to the surrounding habitat from physical disturbance are also possible, although this will be minimal since construction is occurring in an already industrial and commercial shipping area.

In-Water Construction Effects on Potential Prey (Fish)

Construction activities would produce continuous (*i.e.,* vibratory pile driving and DTH drilling) and impulsive (*i.e.,* impact driving) sounds. Fish react to sounds that are especially strong and/or intermittent low-frequency sounds. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan 2001, 2002; Popper and Hastings 2009). Sound impulsive sounds at received levels of 160 dB may cause subtle changes in fish behavior. SPLs of 180 dB may cause noticeable changes in behavior (Pearson *et al.,* 1992; Skalski *et al.,* 1992). SPLs of sufficient strength have been known to cause injury to fish and fish mortality.

The most likely impact to fish from pile driving and drilling activities at the project area would be temporary behavioral avoidance of the area. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the short timeframe (22 days) for the project.

Pile Driving Effects on Potential Foraging Habitat

The area likely impacted by the project is relatively small compared to the available habitat in Ketchikan. Avoidance by potential prey (*i.e.,* fish) of the immediate area due to the temporary loss of this foraging habitat is also possible. The duration of fish avoidance of this area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity of Ketchikan's Berth IV dock.

The duration of the construction activities is relatively short. The construction window is for a maximum of 22 days and each day, construction activities would only occur for a few hours during the day. Impacts to habitat and prey are expected to be minimal based on the short duration of activities.

In summary, given the short daily duration of sound associated with individual pile driving and drilling events and the relatively small areas being affected, pile driving and drilling activities associated with the proposed action are not likely to have a permanent, adverse effect on any fish habitat, or populations of fish species. Thus, any impacts to marine mammal habitat are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS's consideration of ''small numbers'' 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 primarily be by Level B harassment, as use of impact pile driving, vibratory pile driving/removal, and drilling has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for harbor seals and harbor porpoises due to larger predicted auditory injury zones. Auditory injury is unlikely to occur for other species. The proposed mitigation and monitoring measures are expected to minimize the

severity of such taking to the extent practicable.

As described previously, no mortality or serious injury 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) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the 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 or experience TTS (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa rms for continuous (*e.g.* vibratory pile-driving, drilling) and above 160 dB re 1 μPa rms for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

KDC's proposed construction activity includes the use of continuous (vibratory pile driving and drilling) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa rms thresholds for Level B behavioral harassment are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). KDC's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving and drilling) sources.

These thresholds 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 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,\ flat}$ 219 dB; $L_{E,LF,24h}$; 183 dB	Cell 2: $L_{E,LF,24h}$; 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,\ flat}$; 230 dB; $L_{E,MF,24h}$; 185 dB	Cell 4: $L_{E,MF,24h}$; 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,\ flat}$ 202 dB; $L_{E,HF,24h}$; 155 dB	Cell 6: $L_{E,HF,24h}$; 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,\ flat}$ 218 dB; $L_{E,PW,24h}$; 185 dB	Cell 8: $L_{E,PW,24h}$; 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,\ flat}$ 232 dB; $L_{E,OW,24h}$; 203 dB	Cell 10: $L_{E,OW,24h}$; 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E has a reference value of 1μPa. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat wieghted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Reference sound levels used by KDC for all vibratory and impact piling activities were derived from source level data from construction projects at the Port of Anchorage (Austin *et al.,* 2016) and Ketchikan Ferry Terminal (Denes *et al.,* 2016). To determine the ensonfied areas for both the Level A and Level B zones for vibratory piling of 48-inch and 36-inch steel piles, KDC used Sound Pressure Levels (SPLs) of 168.2 dB re 1 μPa rms and 161.9 dB dB re 1 μPa rms, respectively. These were derived from vibratory pile driving data (of the same pile sizes) during the Port of Anchorage test pile project (Austin *et al.,* 2016, Tables 9 and 16).

For impact pile driving, KDC used both SPLs and Sound Exposure Levels (SEL) derived from SSV studies conducted on 48-inch steel piles during the Port of Anchorage test pile project. To determine Level A ensonified zones from impact piling, KDC utilized an SEL of 186.7 dB. When determining Level A zones, SELs are more accurate than SPLs, as they incorporate the pulse duration explicitly rather than assuming a proxy pulse duration and they provide a more refined estimation of impacts. However, to determine the Level B zone

for impact piling, an SPL of 198.6 dB re 1 μPa rms was used. In addition, for drilling, KDC used a reference sound level of 167.7 dB re 1 μPa rms from SSV studies conducted during drilling activities at the Kodiak Ferry Terminal to calculate both the Level A and Level B ensonified zones for the Berth IV Expansion project. More information on the source levels used are presented in Table 4 below.

TABLE 4—PROJECT SOURCE LEVELS

Activity	Source level at 10 meters (dB)
Vibratory Pile Driving/Removal	
24-inch steel removal (2 piles) (~1 hour on 1 day) [1]	[2] 161.9 SPL
30-inch steel removal (6 piles) (~1 hour per day on 2 days)	[2] 161.9 SPL
36-inch steel removal (4 piles) (~1 hour on 1 day)	[2] 168.2 SPL
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	[2] 161.9 SPL
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	[2] 161.9 SPL
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	[2] 168.2 SPL
Impact Pile Driving	
48-inch steel permanent installation (17 piles) (~15 minutes per day on 6 days)	186.7 SEL/ [3] 198.6 SPL
Socketing Pile Installation (Drilling)	
30-inch steel permanent installation (1 pile) (~3 hours on 1 day)	[4] 167.7 SPL

[1] This project will only remove two 24-inch diameter steel piles total for a maximum of 30 minutes of removal in one day. However, because a maximum of 4 pile could be removed each day, we used 1 hour (the time it would take to remove four piles) of removal time instead of 30 minutes to calculate the distance threshold.

[2] The 36-inch and 48-inch diameter pile source levels are proxy from median measured source levels from pile driving of 48-inch piles for the Port of Anchorage test pile project (Austin *et al.* 2016, Tables 9 and 16). The 24-inch and 30-inch diameter source levels are proxy from median measured sources levels from pile driving of 30-inch diameter piles to construct the Ketchikan Ferry Terminal (Denes *et al.* 2016, Table 72).

[3] Sound pressure level root-mean-square (SPL rms) values were used to calculate distance to Level B harassment isopleths for impact pile driving. The source level of 186.7 SEL is the median measured from the Port of Anchorage test pile project for 48-inch piles (Austin *et al.* 2016, Table 9). We calculated the distances to Level A thresholds assuming 200 strikes in 1 hour and 15 minutes of work in 24 hours.

[4] The 30-inch diameter socketing source level is proxy from mean measured sources levels from drilling of 24-inch diameter piles to construct the Kodiak Ferry Terminal (Denes *et al.* 2016, Table 72).

Level B Zones

The practical spreading model was used by KDC to generate the Level B harassment zones for all piling and drilling activities. Practical Spreading, a form of transmission loss, is described in full detail below.

Pile driving and drilling generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log10(R1/R2),$$

Where:

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log[range]). A practical spreading value of 15 is often used under conditions where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Utilizing the practical spreading loss model, KDC determined underwater noise will fall below the behavioral effects threshold of 120 dB rms for marine mammals at a max radial distance of 16,343 meters and 15,136 meters for vibratory piling and drilling, respectively.[2] With these radial distances, and due to the occurrence of landforms (See Figure 5 of IHA Application), the largest Level B zone calculated for vibratory piling and drilling equaled 10.3 km^2. For calculating the Level B zone for impact driving, the practical spreading loss model was used with a behavioral threshold of 160 dB rms. The maximum radial distance of the Level B ensonified zone for impact piling equaled 3,744 meters. At this radial distance, the entire Level B zone for impact piling equaled 4.9 km^2. Table 5 below provides all Level B radial distances and their corresponding areas for each activity during KDC's Berth IV Expansion project.

[2] These distances represent calculated distances based on the practical spreading model; however, landforms will block sound transmission at closer distances. The farthest distance that sound will transmit from the source is 13,755 m before transmission is stopped by Annette Island.

TABLE 5—LEVEL B ZONES CALCULATED USING THE PRACTICAL SPREADING MODEL

Source	Level B zones (meters)	Level B zone (square kilometers)
Vibratory Pile Driving		
24-inch steel removal (2 piles) (~1 hour on 1 day3)	6,215	5.9
30-inch steel removal (6 piles) (~1 hour per day on 2 days)	6,215	5.9
36-inch steel removal (4 piles) (~1 hour on 1 day)	* 16,343	10.3
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	6,215	5.9
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	6,215	5.9
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	* 16,343	10.3
Impact Pile Driving		
48-inch steel (17 piles) (~15 minutes per day on 6 days)	3,745	4.9
Socketing Pile Installation (Drilling)		
30-inch steel (1 pile) (~3 hours on 1 day)	* 15,136	10.3

* These distances represent calculated distances based on the practical spreading model; however, landforms will block sound transmission at closer distances. The farthest distance that sound will transmit from the source is 13,755 m before transmission is stopped by Annette Island.

Level A Zones

When NMFS's Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources (*i.e.,* pile driving and drilling), NMFS's User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting Level A isopleths are reported below.

TABLE 6—NMFS'S OPTIONAL USER SPREADSHEET INPUTS

User spreadsheet input				
Equipment type	Drill	Vibratory pile driver (removal of 30-inch and 24-inch steel piles)	Vibratory pile driver (installation of 30-inch steel piles)	Impact pile driver
Spreadsheet Tab Used	Non-impulsive, continuous.	Non-impulsive, continuous.	Non-impulsive, continuous.	Impulsive, Non-continuous.
Source Level	167.7 SPL	161.9 SPL	161.9 SPL	186.7 SEL.
Weighting Factor Adjustment (kHz)	2	2.5	2.5	2.
(a) Activity duration within 24 hours; (b) Number of strikes per hour.	(a) 3	(a) 1	(a) 2	(b) 200.
Propagation (xLogR)	15	15	15	15.
Distance of source level measurement (meters)+.	10	10	10	10.

TABLE 7—NMFS OPTIONAL USER SPREADSHEET OUTPUTS

User spreadsheet output					
Source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
PTS isopleth (meters)					
Drilling	40	2.3	35	21.4	1.6
Vibratory Pile Driver (Removal of 30-inch and 24-inch steel piles)	7.8	0.7	11.6	4.8	0.3
Vibratory Pile Driver (Installation of 30-inch steel piles)	12.4	1.1	18.4	7.6	0.5
Impact Pile Driver	239.2	8.5	284.9	128.0	9.3

TABLE 7—NMFS OPTIONAL USER SPREADSHEET OUTPUTS—Continued

User spreadsheet output					
Source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Daily ensonified area (km²)					
Drilling	0.003	0.000008	0.002	0.00078	0.000004
Vibratory Pile Driver (Removal of 30-inch and 24-inch steel piles)	0.0001	0.0000008	0.0002	0.00004	0.0000001
Vibratory Pile Driver (Installation of 30-inch steel piles)	0.0002	0.000002	0.0005	0.00009	0.0000004
Impact Pile Driver	0.09	0.0001	0.13	0.03	0.0001

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. Potential exposures to impact pile driving, vibratory pile driving/removal and drilling noises for each acoustic threshold were estimated using group size estimates and local observational data. As previously stated, Level B take as well as small numbers of Level A take will be will be considered for this action. Level B and Level A take are calculated differently for some species based on monthly and daily sightings data based on Freitag (2017) and average group sizes within the action area. Below gives a description of estimated habitat use and group sizes for the eight species of marine mammals known to occur within the action area.

Humpback Whale

Humpback whales frequent the action area and could be encountered during any given day of dock construction. In the project vicinity, humpback whales typically occur in groups of 1–2 animals, with an estimated maximum group size of four animals. Humpback whales can pass through the action area 0–3 times a month (Freitag 2017).

Minke Whale

Minke whales are rare in the action area, but they could be encountered during any given day of dock construction. These whales are usually sighted individually or in small groups of 2–3, but there are reports of loose aggregations of hundreds of animals (NMFS 2018). Freitag (2017) estimates that a group of three whales may occur near or within the action over the four-month period.

Killer Whales

Killer whales pass through the action area and could be encountered during any given day of dock construction. In the project vicinity, typical killer whale pod size varies from between 1–2 and 7–10 individuals, with an estimated maximum group size of 10 animals. Killer whales are estimated to pass through the action area one time a month (Freitag 2017).

Pacific White-Sided Dolphin

Pacific white-sided dolphins are rare in the action area, but they could be encountered during any given day of dock construction (Freitag 2017). Pacific-white sided dolphins have been observed in Alaska waters in groups ranging from 20 to 164 animals (Muto *et al* 2016a).

Dall's Porpoise

Dall's porpoises are seen infrequently in the action area (Freitag 2017), but they could be encountered during any given day of dock construction. In the project vicinity, Dall's porpoises typically occur in groups of 10–15 animals, with an estimated maximum group size of 20 animals. Dall's porpoises have been observed passing through the action area 0–1 times a month (Freitag 2017).

Harbor Porpoise

Harbor porpoises are seen infrequently in the action area, but they could be encountered during any given day of dock construction. In the project vicinity, harbor porpoises typically occur in groups of one to five animals, with an estimated maximum group size of eight animals. Harbor porpoises have been observed passing through the action area 0–1 times a month (Freitag 2017).

Harbor Seals

Harbor seals are common in the action area and are expected to be encountered in low numbers during dock construction. In the action area harbor seals typically occur in groups of one to three animals, with an estimated maximum group size of three animals. Harbor seals can occur every day of the month in the project area (Freitag 2017).

Steller Sea Lions

Steller sea lions are common in the action area and are expected to be encountered in low numbers during dock construction. In the project vicinity Steller sea lions typically occur in groups of 1–10 animals (Freitag 2017), with an estimated maximum group size of 80 animals (HDR 2003). Steller sea lions can occur every day of the month in the project area (Freitag 2017).

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. Table 8 below shows take as a percentage of population for each of the species.

Humpback Whale

Based on observational and group data it is estimated that a group of 2 humpback whales may occur within the Level B harassment zone three times each month over the four-month construction window during active pile driving (2 animals in a group × 3 groups each month × 4 months = 24 animals). Therefore, NMFS proposed to authorize 24 Level B takes of humpback whales.

Minke Whale

Based on local sighting information (Freitag 2017), it is estimated that a group of three whales may occur within the Level B harassment zone once over the four-month construction window during active pile driving (three animals in a group × one group in four months = 3 animals). Therefore, NMFS proposed to authorize three Level B takes of minke whale.

Killer Whales

Based on observational and group data it is estimated that a group of 10 killer whales may occur within the Level B harassment zone one time each month over the four-month construction window during active pile driving (10 animals in a group × 1 group each

month × 4 months = 40 animals). Therefore, NMFS proposed to authorize 40 Level B takes of killer whales. (To clarify, this request is for 40 takes from all stocks combined, not 40 takes from each stock).

Pacific White-Sided Dolphin

Based on observational and group data it is estimated that a group of 92 (median between 20 and 164) Pacific-white sided dolphins may occur within the Level B harassment zone once over the four-month construction window during active pile driving (92 animals in a group × one group in four months = 92 animals). Therefore, NMFS proposed to authorize 92 Level B takes of Pacific white-sided dolphins.

Dall's Porpoise

Based on observational and group data it is estimated that a group of 15 Dall's porpoises may occur within the Level B harassment zone one time each month over the four-month construction window during active pile driving (15 animals in a group × one group each month × four months = 60 animals). Therefore, NMFS proposed to authorize 60 Level B takes of Dall's porpoise.

Harbor Porpoise

Based on observational and group data it is conservatively estimated that a group of 5 harbor porpoise may occur within the Level B harassment zone once time each month over the four-month construction window during active pile driving (five animals in a group × one group each month × four months = 20 animals). In addition, NMFS proposes to authorize Level A take for one group of harbor porpoises to safeguard against the possibility of PSOs not being able detect a group of harbor porpoises within their largest corresponding shutdown (see table 9). Therefore, NMFS proposes to authorize 20 Level B takes and five Level A takes of harbor porpoises.

Harbor Seals

Based on observational and group data it is conservatively estimated that two groups of three harbor seals may occur within the Level B harassment zone every day that pile driving may occur, and pile driving is estimated to occur on 20 days during the four-month long construction duration (three animals in a group × two groups per day × 20 days = 120 animals). In addition, NMFS proposes to authorize Level A take for two groups of harbor seals to safeguard against the possibility of PSOs not being able detect a group of harbor seals within their largest corresponding shutdown zone (see Table 9). Therefore, NMFS proposed to authorize 120 Level B takes and six Level A takes of harbor seals.

Steller Sea Lions

Based on observational and group data it is estimated that a group of 10 Steller sea lions may occur within the Level B harassment zone every day that pile driving may occur, and pile driving is estimated to occur on 20 days during the four-month long construction duration (10 animals in a group × 20 days = 200 animals). Therefore, NMFS proposed to authorize 200 Level B takes of Steller sea lions.

TABLE 8—PROPOSED TAKE ESTIMATES AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Stock (NEST) [a]	Level A	Level B	Percent of Stock
Humpback Whale	Hawaii DPS (11,398)[b]	0	[b] 22	0.20
	Mexico DPS (3,264)[b]		2	0.03
Minke Whale	Alaska (N/A)	0	3	N/A
Killer Whale	Alaska Resident (2,347)			1.70
	Northern Resident (261)	0	40	15.33
	West Coast Transient (243)			[d] 16.46
Pacific White-Sided Dolphin	North Pacific (26,880)	0	92	0.34
Dall's Porpoise	Alaska (83,400)	0	60	0.07
Harbor Porpoise	Southeast Alaska (975)[c]	5	20	2.56
Harbor Seal	Clarence Strait (31,634)	6	120	0.40
Steller Sea Lion	Eastern U.S (49,497)	0	200	0.40

[a] Stock estimate from Muto, M. M. *et al.* 2016. Appendix 2. Stock Summary Table (last revised 12.30.16).NOAA–TM–AFSC–355Muto,M.M.,*et al. http://www.nmfs.noaa.gov/pr/sars/pdf/ak_2016_sars_appendix_2.pdf* unless otherwise noted.

[b] Under the MMPA humpback whales are considered a single stock (Central North Pacific); however, we have divided them here to account for DPSs listed under the ESA. Based on calculations in Wade *et al.* 2016, 93.9% of the humpback whales in Southeast Alaska are expected to be from the Hawaii DPS and 6.1% are expected to be from the Mexico DPS.

[c] In the SAR for harbor porpoise (NMFS 2017), NMFS identified population estimates and PBR for porpoises within inland Southeast Alaska waters (these abundance estimates have not been corrected for g(0); therefore, they are likely conservative.

[d] These percentages assume all 40 takes come from each individual stock, thus the percentage should be inflated if multiple stocks are actually impacted.

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.

The following mitigation measures are proposed in the IHA:

Timing Restrictions

All work will be conducted during daylight hours. If poor environmental conditions restrict visibility full visibility of the shutdown zone, pile installation would be delayed.

Sound Attenuation

To minimize noise during vibratory and impact pile driving, pile caps (pile softening material) will be used. KDC will use high-density polyethylene (HDPE) or ultra-high-molecular- weight polyethylene (UHMW) softening material on all templates to eliminate steel on steel noise generation.

Shutdown Zone for In-Water Heavy Machinery Work

For in-water heavy machinery work (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), a minimum 10 meter shutdown zone shall be implemented. If a marine mammal comes within 10 meters of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions. This type of work could include (but is not limited to) the following activities: (1) Vibratory pile driving; (2) movement of the barge to the pile location; (3) positioning of the pile on the substrate via a crane (*i.e.,* stabbing the pile); or (4) removal of the pile from the water column/substrate via a crane (*i.e.,* deadpull).

Additional Shutdown Zones

For all pile driving/removal and drilling activities, KDC will establish a shutdown zone for a marine mammal species that is greater than its corresponding Level A zone. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). The shutdown zones for each of the pile driving and drilling activities are listed below in Table 9.

TABLE 9—SHUTDOWN ZONES

Source	Shutdown Zones (meters)				
	Low-frequency Cetaceans (humpback whale, Minke whale)	Mid-frequency Cetaceans (killer whale, Pacific white-sided dolphin)	High-frequency Cetaceans (Dall's porpoise, harbor porpoise)	Phocid (harbor seal)	Otariid (sea lion)
In-Water Construction Activities*					
In Water Heavy Construction(*i.e.,* Barge movements, pile positioning, deadpulling, and sound attenuation)	10	10	10	10	10
Vibratory Pile Driving					
24-inch steel removal (2 piles) (~1 hour on 1 day)	25	25	25	25	25
30-inch steel removal (6 piles) (~1 hour per day on 2 days)	25	25	25	25	25
36-inch steel removal (4 piles) (~1 hour on 1 day)	25	25	50	25	25
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	25	25	25	25	25
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	25	25	25	25	25
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	50	25	50	25	25
Impact Pile Driving					
48-inch steel permanent installation (17 piles) (~15 minutes per day on 6 days)	240	25	290	130	25
Socketing Pile Installation(Drilling)					
30-inch steel permanent installation (1 pile) (3 hours per day on 1 day)	50	25	50	25	25

Monitoring Zones

KDC will establish and observe a monitoring zone. The monitoring zones for this project are areas where SPLs are equal to or exceed 120 dB rms (for vibratory pile driving and drilling) and 160 dB rms (for impact driving) These areas are equal to Level B harassment zones and are presented in Table 10 below. These zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring of disturbance zones enables observers to be aware of and communicate the

presence of marine mammals in the project area, but outside the shutdown zone, and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting instances of Level B harassment; disturbance zone monitoring is discussed in detail later (see Proposed Monitoring and Reporting).

TABLE 10—MONITORING ZONES

Source	Level B zones (meters)	Level B zone (square kilometers)
Vibratory Pile Driving		
24-inch steel removal (2 piles) (~1 hour on 1 day 3)	6,215	5.9
30-inch steel removal (6 piles) (~1 hour per day on 2 days)	6,215	5.9
36-inch steel removal (4 piles) (~1 hour on 1 day)	13,755	10.3
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	6,215	5.9
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	6,215	5.9
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	13,755	10.3
Impact Pile Driving		
48-inch steel (17 piles) (~15 minutes per day on 6 days)	3,745	4.9
Socketing Pile Installation (Drilling)		
30-inch steel (1 pile) (~3 hours on 1 day)	13,755	10.3

Non-Authorized Take Prohibited

If a species enters or approaches the Level B zone and that species is either not authorized for take or its authorized takes are met, pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or an observation time period of 15 minutes has elapsed for pinnipeds and small cetaceans and 30 minutes for large whales.

Soft Start

The use of a soft-start procedure are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the impact hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of strikes from the hammer at 40 percent energy, each strike followed by no less than a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft Start is not required during vibratory pile driving and removal activities.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Monitoring zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Monitoring zone. When a marine mammal permitted for Level B take is present in the Monitoring zone, piling activities may begin and Level B take will be recorded. As stated above, if the entire Level B zone is not visible at the start of construction, piling or drilling activities can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Monitoring zone and shutdown zone will commence.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, 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).
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring would be conducted 30 minutes before, during, and 30 minutes after all pile driving/removal and drilling activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven, removed, or pile holes being drilled. Pile driving and drilling activities include the time to install, remove, or drill a hole for a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

Monitoring will be conducted by NMFS approved Protected Species Observers (PSOs). The number of PSOs will vary from two to four, depending on the type of pile driving and size of pile, which determines the size of the harassment zones. Two land-based PSOs will monitor during all impact pile driving activity, three land-based PSOs will monitor during vibratory pile driving of 36-inch and 48-inch diameter piles, and four land-based PSOs will monitor during vibratory pile driving of 36-inch and 48-inch diameter piles.

One PSO will be stationed at Berth IV and will be able to view across Tongass Narrows south and west to Gravina Island. The second and third PSOs will be located in increments along the road systems at locations that provide the best vantage points for viewing Tongass Narrows west and east of Berth IV. These locations will vary depending on type of pile driving. The fourth PSO will be located on the road system near Mountain Point and will be able to view Tongass Narrows to the northwest and Revillagigedo Channel to the southeast.

Monitoring of pile driving shall be conducted by qualified, NMFS approved PSOs, who shall have no other assigned tasks during monitoring periods. KDC shall adhere to the following conditions when selecting observers:

- Independent PSOs shall be used (*i.e.,* not construction personnel).
- At least one PSO must have prior experience working as a marine mammal observer during construction activities.
- Other PSOs may substitute education (degree in biological science or related field) or training for experience.
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction.
- KDC shall submit PSO CVs for approval by NMFS.

KDC shall ensure that observers have the following additional qualifications:

- Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;
- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior;
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary; and
- Sufficient training, orientation, or experience with the construction operations to provide for personal safety during observations.

KDC shall submit a draft report to NMFS not later than 90 days following the end of construction activities. KDC shall provide a final report within 30 days following resolution of NMFS' comments on the draft report. Reports shall contain, at minimum, the following:

- Date and time that monitored activity begins and ends for each day conducted (monitoring period);
- Construction activities occurring during each daily observation period, including how many and what type of piles driven;
- Deviation from initial proposal in pile numbers, pile types, average driving times, etc.;
- Weather parameters in each monitoring period (*e.g.,* wind speed, percent cloud cover, visibility);
- Water conditions in each monitoring period (*e.g.,* sea state, tide state);
- For each marine mammal sighting:
  - Species, numbers, and, if possible, sex and age class of marine mammals;
  - Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
  - Location and distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Estimated amount of time that the animals remained in the Level B zone
- Description of implementation of mitigation measures within each monitoring period (*e.g.,* shutdown or delay);
- Other human activity in the area within each monitoring period
- A summary of the following:
  - Total number of individuals of each species detected within the Level B Zone, and estimated as taken if correction factor appropriate.
  - Total number of individuals of each species detected within the Level A Zone and the average amount of time that they remained in that zone.
  - Daily average number of individuals of each species (differentiated by month as appropriate) detected within the Level B Zone, and estimated as taken, if appropriate.

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).

As stated in the proposed mitigation section, shutdown zones, greater than Level A harassment zones, will be implemented. Level A take is only authorized as a precautionary measure for two species (harbor seals and harbor porpoises) in case PSOs are unable to detect them within their larger shutdown zones while impact piling 48-inch steel piles. Exposures to elevated sound levels produced during pile driving activities may cause behavioral responses by an animal, but they are expected to be mild and temporary. Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. These reactions and behavioral changes are expected to subside quickly when the exposures cease.

To minimize noise during vibratory and impact pile driving, KDC will use pile caps (pile softening material). Much of the noise generated during pile installation comes from contact between the pile being driven and the steel template used to hold the pile in place. The contractor will use high-density polyethylene (HDPE) or ultra-high-molecular-weight polyethylene (UHMW) softening material on all templates to eliminate steel on steel noise generation.

During all impact driving, implementation of soft start procedures and monitoring of established shutdown zones will be required, significantly reducing any possibility of injury. Given sufficient notice through use of soft start (for impact driving), marine mammals are expected to move away from an irritating sound source prior to it becoming potentially injurious. In addition, PSOs will be stationed within the action area whenever pile driving and drilling operations are underway. Depending on the activity, KDC will employ the use of two to four PSOs to ensure all monitoring and shutdown zones are properly observed.

Although the expansion of Berth IV's facilities would have some permanent removal of habitat available to marine mammals, the area lost would negligible. Most of the project footprint would be within previously disturbed areas adjacent to existing Berth IV structures and within an active marine commercial and industrial area. There are no known pinniped haul outs near the action area.

In addition, impacts to marine mammal prey species are expected to be minor and temporary. Overall, the area impacted by the project is very small compared to the available habitat around Ketchikan. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. During pile driving and drilling, it is expected that fish and marine mammals would temporarily move to nearby locations and return to the area following cessation of in-water construction activities. Therefore, indirect effects on marine mammal prey during the construction are not expected to be substantial.

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;
- Minimal impacts to marine mammal habitat;
- The action area is located in an industrial and commercial marina;
- The absence of any rookeries, or known areas or features of special significance for foraging or reproduction in the project area;
- Anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; and
- The anticipated efficacy of the required mitigation measures (*i.e.* shutdown zones and pile caps) in reducing the effects of the specified activity.

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 all 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.

Take of eight of the ten marine mammal stocks authorized for take is less than three percent of the stock abundance. For northern resident and west coast transient killer whales, we acknowledge that 15.33 percent and 16.46 percent of the stocks are proposed to be taken by Level B harassment, respectively. However, since three stocks of killer whales could occur in the action area, the 40 total killer whale takes are likely split among the three stocks. Nonetheless, since NMFS does not have a good way to predict exactly how take will be split, NMFS looked at the most conservative scenario, which is that all 40 takes could potentially occur to each of the three stocks. This is a highly unlikely scenario to occur and the percentages of each stock taken are predicted to be significantly lower than values presented in Table 8 for killer whales.

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 Alaska Regional Office (AKRO) whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of Mexico DPS humpback whales, which are listed under the ESA. The Permit and Conservation Division has requested initiation of Section 7 consultation with the Alaska Regional Office for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to KDC for conducting pile driving, pile removal, and drilling activities for the Ketchikan Berth IV Expansion Project in Ketchikan, Alaska from October 2018 to January of 2019, 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).

1. This Incidental Harassment Authorization (IHA) is valid for a period of one year from the date of issuance.

2. This IHA is valid only for impact pile driving, vibratory pile driving, vibratory pile removal, and drilling activities associated with the construction of the Ketchikan Berth IV Expansion Project in Ketchikan, Alaska.

3. General Conditions

(a) A copy of this IHA must be in the possession of KDC, its designees, and work crew personnel operating under the authority of this IHA;

(b) The species authorized for taking are the minke whale (*Balaenoptera acutorostrata*), humpback whale (*Megaptera novaeangliae*), killer whale (*Orcinus orca*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), Steller sea lion (*Eumetopias jubatus*), Pacific White-Sided Dolphin (*Lagenorhynchus obliquidens*), and harbor seal (*Phoca vitulina*);

(c) The taking, by Level B harassment and small numbers of Level A harassment, is limited to the species listed in condition 3(b). See Table 1 (attached) for numbers of take authorized;

(d) The taking by serious injury or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA;

(e) KDC shall conduct briefings between construction supervisors and crews and marine the mammal monitoring team prior to the start of all pile driving, pile removal, and drilling, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;

(f) Pile driving and drilling activities authorized under this IHA may only occur during daylight hours.

4. Mitigation Measures

The holder of this Authorization is required to implement the following mitigation measures:

(a) For all pile driving, drilling, and in-water heavy machinery work, KDC shall implement a shutdown zone around the pile or work zone. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease. See Table 2 (attached) for minimum radial distances required for shutdown zones;

(b) After a shutdown occurs, impact pile driving, vibratory piling driving/removal, and/or drilling can only begin after the animal is observed leaving the shutdown zone or has not been observed for 15 minutes;

(c) KDC shall use a softening material (*e.g.,* high-density polyethylene (HDPE) or ultra-high-molecular-weight polyethylene (UHMW)) on all templates to eliminate steel on steel noise generation.

(d) KDC will use a soft-start procedure for impact pile driving. During a soft start, KDC will be required to provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one minute waiting period, then two subsequent 3–strike sets. This soft-start will be applied prior to beginning pile driving activities each day or when impact pile driving hammers have been idle for more than 30 minutes.

(e) KDC will drive all piles with a vibratory hammer until a desired depth is achieved or to refusal prior to using an impact hammer.

(f) KDC shall establish monitoring locations as described below.

5. Monitoring

The holder of this Authorization is required to conduct marine mammal monitoring during all pile driving/removal and drilling activities. Monitoring and reporting shall be conducted in accordance with the Monitoring Plan as described below.

(a) KDC shall monitor the Level B harassment zones (monitoring zones) and shutdown zones shown below in Tables 2 and 3 during all pile driving/removal and drilling activities

(b) If waters exceed a sea-state which restricts the observers' ability to make observations within the marine mammal shutdown zone, pile installation/removal and drilling shall cease. Pile driving and/or drilling shall not be initiated or continue until the entire largest shutdown zone for the activity is visible.

(c) Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal and/or drilling of 30 minutes or longer occurs, the PSOs shall observe the shutdown and monitoring zones for a period of 30 minutes before construction activities can begin.

(d) Monitoring shall be conducted by qualified PSOs, with minimum qualifications as described previously in the *Monitoring and Reporting* section of the proposed *Federal Notice.* PSO requirements include:

(i) Two to Four observers shall be on site to actively observe the shutdown and disturbance zones during all pile driving, removal, and drilling;

(1) Two land-based PSOs will monitor during all impact pile driving, vibratory removal, and drilling activities.

(2) Four land-based PSOs will monitor during vibratory pile driving of 36-inch and 48-inch diameter piles.

(ii) Observers shall use their naked eye with the aid of binoculars, and/or a spotting scope during all pile driving and extraction activities;

(iii) Monitoring location(s) will include the following characteristics:

(1) One PSO will be stationed at Berth IV and will be able to view across Tongass Narrows south and west to Gravina Island.

(2) A second and third PSOs will be located in increments along the road systems at locations that provide the best vantage points for viewing Tongass Narrows west and east of Berth IV. These locations will vary depending on type of pile driving.

(3) The fourth PSO will be located on the road system near Mountain Point and will be able to view Tongass Narrows to the northwest and Revillagigedo Channel to the southeast.

(4) An unobstructed view of all water within the shutdown zone and as much of the Level B harassment zone as possible for pile driving/removal and/or drilling;

(e) Marine mammal location shall be determined using a rangefinder and a GPS or compass;

(f) Post-construction monitoring shall be conducted for 30 minutes beyond the cessation of piling and drilling activities at end of day.

6. Reporting

The holder of this Authorization is required to: (a) Submit a draft report on all monitoring conducted under the IHA within 90 calendar days of the completion of marine mammal monitoring. This report shall detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed, including the total number extrapolated from observed animals across the entirety of relevant monitoring zones A final report shall be prepared and submitted within thirty days following resolution of comments on the draft report from NMFS. This report must contain the following:

(i) Date and time a monitored activity begins or ends;

(ii) Construction activities occurring during each observation period;

(iii) Record of implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any;

(iv) Deviation from initial proposal in pile numbers, pile types, average driving times, etc.;

(v) Weather parameters (*e.g.,* percent cover, visibility);

(vi) Water conditions (*e.g.,* sea state, tide state);

(vii) Species, numbers, and, if possible, sex and age class of marine mammals;

(viii) Description of any observable marine mammal behavior patterns,

(ix) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

(x) Locations of all marine mammal observations; and

(xi) Other human activity in the area.

(b) Reporting injured or dead marine mammals:

(i) 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 (Level A harassment), serious injury, or mortality, KDC shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8401), NMFS, and the Alaska Regional Stranding Coordinator (907–271–1332), NMFS. The report must include the following information:

1. Time and date of the incident;

2. Description of the incident;

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

4. Description of all marine mammal observations and active sound source use in the 24 hours preceding the incident;

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

6. Fate of the animal(s); and

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

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with KDC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. KDC may not resume their activities until notified by NMFS;

(i) In the event that KDC discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), KDC shall immediately report the incident to the Office of Protected Resources, NMFS, and the Alaska Regional Stranding Coordinator, NMFS;

(ii) The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with KDC to determine whether additional mitigation measures or modifications to the activities are appropriate;

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

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

TABLE 1—AUTHORIZED TAKE NUMBERS, BY SPECIES

Species	Stock	Level A	Level B
Humpback Whale	Central North Pacific	0	24
Minke Whale	Alaska	0	3
Killer Whale	Alaska Resident		40
	Northern Resident	0	40
	West Coast Transient		40
Pacific White-Sided Dolphin	North Pacific	0	92
Dall's Porpoise	Alaska	0	60
Harbor Porpoise	Southeast Alaska	5	20
Harbor Seal	Clarence Strait	6	120
Steller Sea Lion	Eastern U.S	0	200

TABLE 2—SHUTDOWN ZONES

Source	Shutdown zones (meters)				
	Low-frequency cetaceans (humpback whale, minke whale)	Mid-frequency cetaceans (killer whale, Pacific-white sided dolphin)	High-frequency cetaceans (dall's porpoise, harbor porpoise)	Phocid (harbor seal)	Otariid (sea lion)
In-Water Construction Activities*					
In Water Heavy Construction (*i.e.,* Barge movements, pile positioning, deadpulling, and sound attenuation)	10	10	10	10	10
Vibratory Pile Driving					
24-inch steel removal (2 piles) (~1 hour on 1 day)	25	25	25	25	25
30-inch steel removal 6 piles) (~1 hour per day on 2 days)	25	25	25	25	25
36-inch steel removal (4 piles) (~1 hour on 1 day)	25	25	50	25	25
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	25	25	25	25	25
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	25	25	25	25	25
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	50	25	50	25	25
Impact Pile Driving					
48-inch steel permanent installation (17 piles) (~15 minutes per day on 6 days)	240	25	290	130	25
Socketing Pile Installation (Drilling)					
30-inch steel permanent installation (1 pile) (3 hours per day on 1 day)	50	25	50	25	25

TABLE 3—MONITORING ZONES

Source	Level B zones (meters)	Level B zone (square kilometers)
Vibratory Pile Driving		
24-inch steel removal (2 piles) (~1 hour on 1 day 3)	6,215	5.9
30-inch steel removal (6 piles) (~1 hour per day on 2 days)	6,215	5.9
36-inch steel removal (4 piles) (~1 hour on 1 day)	13,755	10.3
30-inch steel temporary installation (16 piles) (~2 hours per day on 4 days)	6,215	5.9
30-inch steel permanent installation (1 pile) (~2 hours on 1 day)	6,215	5.9
48-inch steel permanent installation (17 piles) (~2 hours per day on 9 days)	13,755	10.3
Impact Pile Driving		
48-inch steel (17 piles) (~15 minutes per day on 6 days)	3,745	4.9
Socketing Pile Installation (Drilling)		
30-inch steel (1 pile) (~3 hours on 1 day)	13,755	10.3

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for the proposed pile driving/removal and drilling activities. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when 1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or 2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to expiration of the current IHA.
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously

analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements; and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

• Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures remain the same and appropriate, and the original findings remain valid.

Dated: May 7, 2018.

Elaine T. Saiz,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–10017 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Oceanic and Atmospheric Administration's Papahānaumokuākea Marine National Monument and University of Hawaii Research Internship 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 July 10, 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 Brian Hauk, 808–725–5835, *Brian.Hauk@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The National Oceanic and Atmospheric Administration's (NOAA's) Papahānaumokuākea Marine National Monument (PMNM) would like to collect student data and information for the purposes of selecting candidates for its research internship program in partnership with the University of Hawaii. The application package would contain: (1) A form requesting information on academic background and professional experiences, (2) reference forms in support of the internship application by two educational or professional references, and (3) a support letter from one academic professor or advisor.

II. Method of Collection

Electronic applications and electronic forms submitted via email.

III. Data

OMB Control Number: 0648-xxxx.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Individuals or households; business or other for-profit organizations; not-for-profit institutions; State, Local, or Tribal government.

Estimated Number of Annual Respondents: 20.

Estimated Time per Response: Internship application form, reference forms and support letter, 1 hour each.

Estimated Total Annual Burden Hours: 80.

Estimated Total Annual Cost to Public: $20 for copies.

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: May 8, 2018.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2018–10060 Filed 5–10–18; 8:45 am]

BILLING CODE 3510–NK–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes products and a service from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* June 10, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 3–30–2018 (83 FR 62), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish

the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and service deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Products

NSN(s)—Product Name(s):
7930–01–619–1851—Cleaner, Wheel and Tire, 5 GL
7930–01–619–2632—Bug Remover, Concentrated, Gelling, Vehicle, 5 GL
Mandatory Source(s) of Supply: VisionCorps, Lancaster, PA
Contracting Activity: General Services Administration, Fort Worth, TX

Service

Service Type: Grounds Maintenance Service
Mandatory for: Naval & Marine Corps Reserve Center, Encino, CA
Mandatory Source(s) of Supply: Lincoln Training Center and Rehabilitation Workshop, South El Monte, CA
Contracting Activity: Dept of the Navy, U.S. Fleet Forces Command

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–10108 Filed 5–10–18; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed addition to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be provided by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: Comments must be received on or before: June 10, 2018.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Amy B. Jensen, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entity of the Federal Government identified in this notice will be required to procure the service listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Service

Service Type: Warehouse and Distribution Service
Mandatory for: National Institutes of Health, Information Resource Center, 6001 Executive Boulevard, Rockville, MD
Mandatory Source(s) of Supply: The ARC of the District of Columbia, Inc., Washington, DC
Contracting Activity: National Institutes of Health, NIDA

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s): MR 568—Scrubber, 3-pk
Mandatory Source(s) of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: Defense Commissary Agency
NSN(s)—Product Name(s): 7920–01–621–9146—Towel, Cleaning, Non-woven Microfiber, Disposable, 16″ x 16″
Mandatory Source of Supply: Bestwork Industries for the Blind, Inc., Cherry Hill, NJ
Contracting Activity: General Services Administration, Fort Worth, TX

Amy Jensen,

Director, Business Operations.

[FR Doc. 2018–10107 Filed 5–10–18; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2018–ICCD–0057]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application Package for Graduate Assistance in Areas of National Need (GAANN) Program

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a reinstatement of a previously approved information collection.

DATES: Interested persons are invited to submit comments on or before June 11, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0057. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Rebecca Ell, 202–453–6348.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

that written comments received in response to this notice will be considered public records.

Title of Collection: Application package for Graduate Assistance in Areas of National Need (GAANN) Program.

OMB Control Number: 1840–0604.

Type of Review: A reinstatement of a previously approved information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments

Total Estimated Number of Annual Responses: 325.

Total Estimated Number of Annual Burden Hours: 13,432.

Abstract: This information collection provides the U.S. Department of Education with information needed to evaluate, score and rank the quality of the projects proposed by institutions of higher education applying for a Graduate Assistance in Areas of National Need grant. Title VII, Part A, Subpart 2 of the Higher Education Act of 1965, as amended, requires the collection of specific data that are necessary for applicant institutions to receive an initial competitive grant and non-competing continuation grants for the second and third years.

Dated: May 7, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–10019 Filed 5–10–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2018–ICCD–0023]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Pell Grant Reporting Under the Common Origination and Disbursement (COD) System

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before June 11, 2018.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2018–ICCD–0023. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Pell Grant Reporting under the Common Origination and Disbursement (COD) System.

OMB Control Number: 1845–0039.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 7,114,249.

Total Estimated Number of Annual Burden Hours: 497,997.

Abstract: The Federal Pell Grant program is a student financial assistance program authorized under the Higher Education Act of 1965, as amended. The program provides grant assistance to an eligible student attending an institution of higher education. The institution determines the student's award and disburses program funds on behalf of the Department of Education (ED).

Institutions are required to report student Pell Grant payment information to ED electronically. Electronic reporting is conducted through the Common Origination and Disbursement (COD) system. The COD system is used by institutions to request, report and reconcile grant funds received from the Pell Grant program.

Dated: May 8, 2018.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2018–10053 Filed 5–10–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; Teacher Quality Partnership Grant Program

AGENCY: Office of Innovation and Improvement, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2018 for the Teacher Quality Partnership Grant Program, Catalog of Federal Domestic Assistance (CFDA) number 84.336S.

DATES:

Applications Available: May 11, 2018.

Pre-Application Webinars: The Office of Innovation and Improvement intends to post pre-recorded informational webinars designed to provide technical assistance to interested applicants for grants under the Teacher Quality Partnership (TQP) program. These informational webinars will be available on the TQP web page shortly after this notice is published in the **Federal Register** at *http://innovation.ed.gov/what-we-do/teacher-quality/teacher-quality-partnership/applicant-info-and-eligibility/*.

Deadline for Notice of Intent to Apply: June 11, 2018.

Deadline for Transmittal of Applications: June 26, 2018.

Deadline for Intergovernmental Review: August 24, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) or at or at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Mia Howerton, U.S. Department of Education, 400 Maryland Avenue SW, Room 4W205, Washington, DC 20202–5960. Telephone: (202) 205–0147. Email: *Mia.Howerton@ed.gov* or *tqpartnership@ed.gov*.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purposes of the TQP program are to improve student achievement; improve the quality of prospective and new teachers by improving the preparation of prospective teachers and enhancing professional development activities for new teachers; hold teacher preparation programs at institutions of higher education (IHEs) accountable for preparing teachers who meet applicable State certification and licensure requirements; and recruit highly qualified individuals, including minorities and individuals from other occupations, into the teaching force.

Priorities: This notice contains two absolute priorities and three competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 1 is from section 202(d) of the Higher Education Act of 1965, as amended (HEA) and Absolute Priority 2 is from HEA section 202(e). Competitive Preference Priorities 1 and 2 are from the Department's notice of final supplemental priorities and definitions, published in the **Federal Register** on March 2, 2018 (83 FR 9096) (Supplemental Priorities). Competitive Preference Priority 3 is from 34 CFR 75.225.

Absolute Priorities: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3) we consider only applications that meet one of the two absolute priorities. All applicants must address one—and only one—of the two Absolute Priorities in order to be considered for funding.

Under this competition, there will be two funding categories. Absolute Priorities 1 and 2 each constitute their own funding category. Assuming that applications in each funding category are of sufficient quality, the Secretary intends to award grants under each funding category.

Consistent with HEA section 203(b) (20 U.S.C. 1022b(b)), applications will be peer reviewed and scored based on the TQP program's selection criteria. Applications will be scored and placed in rank order by funding category.

These priorities are:

Absolute Priority 1: Partnership Grants for the Preparation of Teachers.

Under this priority, an eligible partnership must carry out an effective pre-baccalaureate teacher preparation program or a fifth-year initial licensing program that includes all of the following:

(a) *Program Accountability.* Implementing reforms, described in paragraph (b) of this priority, within each teacher preparation program and, as applicable, each preparation program for early childhood education (ECE) programs, of the eligible partnership that is assisted under this priority, to hold each program accountable for—

(1) Preparing—

(i) New or prospective teachers to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the Individuals with Disabilities Education Act (IDEA), (including teachers in rural school districts, special educators, and teachers of students who are limited English proficient);

(ii) Such teachers and, as applicable, early childhood educators, to understand empirically-based practice and scientifically valid research related to teaching and learning and the applicability of such practice and research, including through the effective use of technology, instructional techniques, and strategies consistent with the principles of universal design for learning, and through positive behavioral interventions and support strategies to improve student achievement; and

(iii) As applicable, early childhood educators to be highly competent; and

(2) Promoting strong teaching skills and, as applicable, techniques for early childhood educators to improve children's cognitive, social, emotional, and physical development.

Note: In addressing paragraph (a) of this priority, applicants may either discuss their implementation of reforms within all teacher preparation programs that the partner IHE administers and that would be assisted under this TQP program, or selected teacher preparation programs that need particular assistance and that would receive the TQP program funding.

(b) *Required reforms.* The reforms described in paragraph (a) shall include—

(1) Implementing teacher preparation program curriculum changes that improve, evaluate, and assess how well all prospective and new teachers develop teaching skills;

(2) Using empirically-based practice and scientifically valid research, where applicable, about teaching and learning so that all prospective teachers and, as applicable, early childhood educators—

(i) Understand and can implement research-based teaching practices in classroom instruction;

(ii) Have knowledge of student learning methods;

(iii) Possess skills to analyze student academic achievement data and other measures of student learning and use such data and measures to improve classroom instruction;

(iv) Possess teaching skills and an understanding of effective instructional strategies across all applicable content areas that enable general education and special education teachers and early childhood educators to—

(A) Meet the specific learning needs of all students, including students with disabilities, students who are limited English proficient, students who are gifted and talented, students with low literacy levels and, as applicable, children in ECE programs; and

(B) Differentiate instruction for such students;

(v) Can effectively participate as a member of the individualized education program team, as defined in section 614(d)(1)(B) of the IDEA; and

(vi) Can successfully employ effective strategies for reading instruction using the essential components of reading instruction;

(3) Ensuring collaboration with departments, programs, or units of a partner institution outside of the teacher preparation program in all academic content areas to ensure that prospective teachers receive training in both teaching and relevant content areas in order to meet the applicable State certification and licensure requirements, including any requirements for certification obtained through

alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA, which may include training in multiple subjects to teach multiple grade levels as may be needed for individuals preparing to teach in rural communities and for individuals preparing to teach students with disabilities;

(4) Developing and implementing an induction program;

(5) Developing admissions goals and priorities aligned with the hiring objectives of the high-need local educational agency (LEA) in the eligible partnership; and

(6) Implementing program and curriculum changes, as applicable, to ensure that prospective teachers have the requisite content knowledge, preparation, and degree to teach Advanced Placement or International Baccalaureate courses successfully.

(c) *Clinical experience and interaction.* Developing and improving a sustained and high-quality preservice clinical education program to further develop the teaching skills of all prospective teachers and, as applicable, early childhood educators, involved in the program. Such program shall do the following—

(1) Incorporate year-long opportunities for enrichment, including—

(i) Clinical learning in classrooms in high-need schools served by the high-need local educational agency in the eligible partnership, and identified by the eligible partnership; and

(ii) Closely supervised interaction between prospective teachers and faculty, experienced teachers, principals, other administrators, and school leaders at early childhood education programs (as applicable), elementary schools, or secondary schools, and providing support for such interaction.

(2) Integrate pedagogy and classroom practice and promote effective teaching skills in academic content areas.

(3) Provide high-quality teacher mentoring.

(4) Be offered over the course of a program of teacher preparation.

(5) Be tightly aligned with course work (and may be developed as a fifth year of a teacher preparation program).

(6) Where feasible, allow prospective teachers to learn to teach in the same local educational agency in which the teachers will work, learning the instructional initiatives and curriculum of that local educational agency.

(7) As applicable, provide training and experience to enhance the teaching skills of prospective teachers to better prepare such teachers to meet the unique needs of teaching in rural or urban communities.

(8) Provide support and training for individuals participating in an activity for prospective or new teachers described in this paragraph or paragraph (1) or (3), and for individuals who serve as mentors for such teachers, based on each individual's experience. Such support may include—

(i) With respect to a prospective teacher or a mentor, release time for such individual's participation;

(ii) With respect to a faculty member, receiving course workload credit and compensation for time teaching in the eligible partnership's activities; and

(iii) With respect to a mentor, a stipend, which may include bonus, differential, incentive, or performance pay, based on the mentor's extra skills and responsibilities.

(d) *Induction Programs for New Teachers.* Creating an induction program for new teachers or, in the case of an early childhood education program, providing mentoring or coaching for new early childhood educators.

(e) *Support and training for participants in early childhood education programs.* In the case of an eligible partnership focusing on early childhood educator preparation, implementing initiatives that increase compensation for early childhood educators who attain associate or baccalaureate degrees in early childhood education.

(f) *Teacher recruitment.* Developing and implementing effective mechanisms (which may include alternative routes to State certification of teachers) to ensure that the eligible partnership is able to recruit qualified individuals to become highly qualified teachers through the activities of the eligible partnership, which may include an emphasis on recruiting into the teaching profession—

(1) Individuals from under represented populations;

(2) Individuals to teach in rural communities and teacher shortage areas, including mathematics, science, special education, and the instruction of limited English proficient students; and

(3) Mid-career professionals from other occupations, former military personnel, and recent college graduates with a record of academic distinction.

(g) *Literacy training.* Strengthening the literacy teaching skills of prospective and, as applicable, new elementary school and secondary school teachers—

(1) To implement literacy programs that incorporate the essential components of reading instruction;

(2) To use screening, diagnostic, formative, and summative assessments to determine students' literacy levels, difficulties, and growth in order to improve classroom instruction and improve student reading and writing skills;

(3) To provide individualized, intensive, and targeted literacy instruction for students with deficiencies in literacy skills; and

(4) To integrate literacy skills in the classroom across subject areas.

Absolute Priority 2: Partnership Grants for the Establishment of Effective Teaching Residency Programs.

I. *In general.* Under this priority, an eligible partnership must carry out an effective teaching residency program that includes all of the following activities:

(a) Supporting a teaching residency program described in paragraph II (a) for high-need subjects and areas, as determined by the needs of the high-need LEA in the partnership;

(b) Placing graduates of the teaching residency program in cohorts that facilitate professional collaboration, both among graduates of the teaching residency program and between such graduates and mentor teachers in the receiving school;

(c) Ensuring that teaching residents who participate in the teaching residency program receive—

(1) Effective pre-service preparation as described in paragraph II;

(2) Teacher mentoring;

(3) Support required through the induction program as the teaching residents enter the classroom as new teachers; and

(4) The preparation described in paragraphs (c)(1), (2), and (3) of Absolute Priority 1.

II. *Teaching Residency Programs.*

(a) *Establishment and design.* A teaching residency program under this priority is a program based upon models of successful teaching residencies that serve as a mechanism to prepare teachers for success in the high-need schools in the eligible partnership, and must be designed to include the following characteristics of successful programs:

(1) The integration of pedagogy, classroom practice, and teacher mentoring;

(2) Engagement of teaching residents in rigorous graduate-level course work leading to a master's degree while undertaking a guided teaching apprenticeship;

(3) Experience and learning opportunities alongside a trained and experienced mentor teacher—

(i) Whose teaching shall complement the residency program so that classroom

clinical practice is tightly aligned with coursework;

(ii) Who shall have extra responsibilities as a teacher leader of the teaching residency program, as a mentor for residents, and as a teacher coach during the induction program for new teachers; and for establishing, within the program, a learning community in which all individuals are expected to continually improve their capacity to advance student learning; and

(iii) Who may be relieved from teaching duties as a result of such additional responsibilities;

(4) The establishment of clear criteria for the selection of mentor teachers based on measures of teacher effectiveness and the appropriate subject area knowledge. Evaluation of teacher effectiveness must be based on, but not limited to, observations of the following—

(i) Planning and preparation, including demonstrated knowledge of content, pedagogy, and assessment, including the use of formative and diagnostic assessments to improve student learning;

(ii) Appropriate instruction that engages students with different learning styles;

(iii) Collaboration with colleagues to improve instruction;

(iv) Analysis of gains in student learning, based on multiple measures that are valid and reliable and that, when feasible, may include valid, reliable, and objective measures of the influence of teachers on the rate of student academic progress; and

(v) In the case of mentor candidates who will be mentoring new or prospective literacy and mathematics coaches or instructors, appropriate skills in the essential components of reading instruction, teacher training in literacy instructional strategies across core subject areas, and teacher training in mathematics instructional strategies, as appropriate;

(5) Grouping of teaching residents in cohorts to facilitate professional collaboration among such residents;

(6) The development of admissions goals and priorities—

(i) That are aligned with the hiring objectives of the LEA partnering with the program, as well as the instructional initiatives and curriculum of such agency, in exchange for a commitment by such agency to hire qualified graduates from the teaching residency program; and

(ii) Which may include consideration of applicants that reflect the communities in which they will teach as well as consideration of individuals from underrepresented populations in the teaching profession; and

(7) Support for residents, once the teaching residents are hired as teachers of record, through an induction program, professional development, and networking opportunities to support the residents through not less than the residents' first two years of teaching.

(b) *Selection of individuals as teacher residents.*

(1) *Eligible Individual.* In order to be eligible to be a teacher resident in a teaching residency program under this priority, an individual shall—-

(i) Be a recent graduate of a four-year IHE or a mid-career professional from outside the field of education possessing strong content knowledge or a record of professional accomplishment; and

(ii) Submit an application to the teaching residency program.

(2) *Selection Criteria for Teaching Residency Program.* An eligible partnership carrying out a teaching residency program under this priority shall establish criteria for the selection of eligible individuals to participate in the teaching residency program based on the following characteristics—

(i) Strong content knowledge or record of accomplishment in the field or subject area to be taught;

(ii) Strong verbal and written communication skills, which may be demonstrated by performance on appropriate tests; and

(iii) Other attributes linked to effective teaching, which may be determined by interviews or performance assessments, as specified by the eligible partnership.

(c) *Stipends or salaries; applications; agreements; repayments.*

(1) *Stipends or salaries.* A teaching residency program under this priority shall provide a one-year living stipend or salary to teaching residents during the teaching residency program;

(2) *Applications for stipends or salaries.* Each teacher residency candidate desiring a stipend or salary during the period of residency shall submit an application to the eligible partnership at such time, and containing such information and assurances, as the eligible partnership may require;

(3) *Agreements to serve.* Each application submitted under paragraph (c)(2) of this priority shall contain or be accompanied by an agreement that the applicant will—

(i) Serve as a full-time teacher for a total of not less than three academic years immediately after successfully completing the teaching residency program;

(ii) Fulfill the requirement under paragraph (c)(3)(i) of this priority by teaching in a high-need school served by the high-need LEA in the eligible partnership and teach a subject or area that is designated as high-need by the partnership;

(iii) Provide to the eligible partnership a certificate, from the chief administrative officer of the LEA in which the resident is employed, of the employment required under paragraph (c)(3)(i) and (ii) of this priority at the beginning of, and upon completion of, each year or partial year of service;

(iv) Meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA, when the applicant begins to fulfill the service obligation under this clause; and

(v) Comply with the requirements set by the eligible partnership under paragraph (d) of this priority if the applicant is unable or unwilling to complete the service obligation required by the paragraph.

(d) *Repayments.*

(1) *In general.* A grantee carrying out a teaching residency program under this priority shall require a recipient of a stipend or salary under paragraph (c)(1) of this priority who does not complete, or who notifies the partnership that the recipient intends not to complete, the service obligation required by paragraph (c)(3) of this priority to repay such stipend or salary to the eligible partnership, together with interest, at a rate specified by the partnership in the agreement, and in accordance with such other terms and conditions specified by the eligible partnership, as necessary;

(2) *Other terms and conditions.* Any other terms and conditions specified by the eligible partnership may include reasonable provisions for pro rata repayment of the stipend or salary described in paragraph (c)(1) of this priority or for deferral of a teaching resident's service obligation required by paragraph (c)(3) of this priority, on grounds of health, incapacitation, inability to secure employment in a school served by the eligible partnership, being called to active duty in the Armed Forces of the United States, or other extraordinary circumstances;

(3) *Use of repayments.* An eligible partnership shall use any repayment received under paragraph (d) to carry out additional activities that are consistent with the purposes of this priority.

Competitive Preference Priorities: For FY 2018 and any subsequent year in

which we make awards from the list of unfunded applicants from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional three points to an application, depending on how well the applicant meets Competitive Preference Priority 1 and 2. We award up to an additional two points to an application, depending on how well the applicant meets Competitive Preference Priority 3. An application may receive a total of up eight additional points under the competitive preference priorities.

If an applicant chooses to address one or more of the competitive preference priorities, the project narrative section of its application must identify its response to the competitive preference priorities it chooses to address. The Department will not review or award points under these competitive preference priorities unless the applicant clearly identifies its response in its application. After review of the Absolute Priorities, only applicants for which competitive preference points could enable them to be funded will have their Competitive Preference Priorities reviewed and scored. The priorities are:

Competitive Preference Priority 1: Promoting Science, Technology, Engineering, or Math (STEM) Education, With a Particular Focus on Computer Science. (up to three points).

Projects designed to improve student achievement or other educational outcomes in one or more of the following areas: science, technology, engineering, math, or computer science. These projects must address the following priority area:

Increasing the number of educators adequately prepared to deliver rigorous instruction in STEM fields, including computer science, through recruitment, evidence-based (as defined in 34 CFR 77.1) professional development strategies for current STEM educators, or evidence-based retraining strategies for current educators seeking to transition from other subjects to STEM fields.

Competitive Preference Priority 2: Promoting Effective Instruction in Classrooms and Schools. (up to three points).

Projects that are designed to support the recruitment or retention of educators who are effective and increase diversity (including, but not limited to, racial and ethnic diversity).

Competitive Preference Priority 3: Novice Applicants. (up to two points).

Projects submitted by applicants that meet the definition of novice applicant at the time they submit their application.

Definitions: The definitions for ''Arts and sciences,'' ''Early childhood educator,'' ''Essential components of reading instruction,'' ''Exemplary teacher,'' ''High-need early childhood education (ECE) program,'' ''High-need local educational agency (LEA),'' ''High-need school,'' ''Highly competent,'' ''Induction program,'' ''Partner institution,'' Scientifically valid research,'' and ''Teacher mentoring'' are from section 200 of the HEA. The definitions for ''Charter School,'' ''Limited English proficient'' and ''Professional development'' are from section 8101 of the ESEA. The definitions for ''Demonstrates a rationale,'' ''Evidence-based,'' ''Experimental study,'' ''Logic model,'' ''Moderate evidence,'' ''Project component,'' ''Promising evidence,'' ''Quasi-experimental design study,'' ''Relevant outcome,'' ''Strong Evidence,'' and ''What Works Clearinghouse Handbook (WWC Handbook)'' are from 34 CFR 77.1. The definition for ''Novice applicant'' is from 34 CFR 75.225. The definition for ''computer science'' is from the Supplemental Priorities.

Arts and sciences means—

(a) When referring to an organizational unit of an institution of higher education, any academic unit that offers one or more academic majors in disciplines or content areas corresponding to the academic subject matter areas in which teachers provide instruction; and

(b) When referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

Charter School means a public school that—

(A) In accordance with a specific State statute authorizing the granting of charters to schools, is exempt from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) Is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) Operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) Provides a program of elementary or secondary education, or both;

(E) Is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) Does not charge tuition;

(G) Complies with the Age Discrimination Act of 1975 [42 U.S.C. 6101 *et seq.*], title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d *et seq.*], title IX of the Education Amendments of 1972 [20 U.S.C. 1681 *et seq.*], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), section 1232g of this title (commonly referred to as the ''Family Educational Rights and Privacy Act of 1974''), and part B of the Individuals with Disabilities Education Act [20 U.S.C. 1411 *et seq.*];

(H) Is a school to which parents choose to send their children, and that—

(i) Admits students on the basis of a lottery, consistent with section 7221b(c)(3)(A) of this title, if more students apply for admission than can be accommodated; or

(ii) In the case of a school that has an affiliated charter school (such as a school that is part of the same network of schools), automatically enrolls students who are enrolled in the immediate prior grade level of the affiliated charter school and, for any additional student openings or student openings created through regular attrition in student enrollment in the affiliated charter school and the enrolling school, admits students on the basis of a lottery as described in clause (i);

(I) Agrees to comply with the same Federal and State audit requirements as do other elementary schools and secondary schools in the State, unless such State audit requirements are waived by the State;

(J) Meets all applicable Federal, State, and local health and safety requirements;

(K) Operates in accordance with State law;

(L) Has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other assessments mutually agreeable to the authorized public chartering agency and the charter school; and

(M) May serve students in early childhood education programs or postsecondary students.

Computer science means the study of computers and algorithmic processes and includes the study of computing principles and theories, computational thinking, computer hardware, software design, coding, analytics, and computer applications.

Computer science often includes computer programming or coding as a tool to create software, including applications, games, websites, and tools to manage or manipulate data; or development and management of computer hardware and the other electronics related to sharing, securing, and using digital information.

In addition to coding, the expanding field of computer science emphasizes computational thinking and interdisciplinary problem-solving to equip students with the skills and abilities necessary to apply computation in our digital world.

Computer science does not include using a computer for everyday activities, such as browsing the internet; use of tools like word processing, spreadsheets, or presentation software; or using computers in the study and exploration of unrelated subjects.

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Early childhood educator means an individual with primary responsibility for the education of children in an ECE program.

Essential components of reading instruction means explicit and systematic instruction in—

(a) Phonemic awareness;

(b) Phonics;

(c) Vocabulary development;

(d) Reading fluency, including oral reading skills; and

(e) Reading comprehension strategies.

Evidence-based means the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale.

Exemplary teacher means a teacher who—

(a) Is a highly qualified teacher such as a master teacher;

(b) Has been teaching for at least five years in a public or private school or institution of higher education;

(c) Is recommended to be an exemplary teacher by administrators and other teachers who are knowledgeable about the individual's performance;

(d) Is currently teaching and based in a public school; and

(e) Assists other teachers in improving instructional strategies, improves the skills of other teachers, performs teacher mentoring, develops curricula, and offers other professional development.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbook:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

High-need early childhood education (ECE) program means an ECE program serving children from low-income families that is located within the geographic area served by a high-need LEA.

High-need local educational agency (LEA) means an LEA—

(i)(A) For which not less than 20 percent of the children served by the agency are children from low-income families;

(B) That serves not fewer than 10,000 children from low-income families;

(C) That meets the eligibility requirements for funding under the Small, Rural School Achievement (SRSA) program under section 5211(b) of the ESEA; or

(D) That meets eligibility requirements for funding under the Rural and Low-Income School (RLIS) program under section 5221(b) of the ESEA; and—

(ii)(A) For which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

(B) For which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

Note: Information on how an applicant may demonstrate that a partner LEA meets this definition is included in the application package.

High-need school means a school that, based on the most recent data available, meets one or both of the following:

(i) The school is in the highest quartile of schools in a ranking of all schools served by an LEA, ranked in descending order by percentage of students from low-income families enrolled in such schools, as determined by the LEA based on one of the following measures of poverty:

(A) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

(B) The percentage of students eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act.

(C) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act.

(D) The percentage of students eligible to receive medical assistance under the Medicaid program.

(E) A composite of two or more of the measures described in paragraphs (A) through (D).

(ii) In the case of—

(A) An elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act; or

(B) Any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act.

(iii) The Secretary may, upon approval of an application submitted by an eligible partnership seeking a grant under this title, designate a school that does not qualify as a high-need school under this definition, as a high-need school for the purpose of this competition. The Secretary shall base the approval of an application for designation of a school under this clause on a consideration of the information required under section

200(11)(B)(ii) of the HEA, and may also take into account other information submitted by the eligible partnership.

Note: Information on how an applicant may demonstrate that a partner LEA meets this definition is included in the application package.

Highly competent when used with respect to an early childhood educator, means an educator—

(a) With specialized education and training in development and education of young children from birth until entry into kindergarten;

(b) With—

(i) A baccalaureate degree in an academic major in the arts and sciences; or

(ii) An associate's degree in a related educational area; and

(c) Who has demonstrated a high level of knowledge and use of content and pedagogy in the relevant areas associated with quality early childhood education.

Induction program means a formalized program for new teachers during not less than the teachers' first two years of teaching that is designed to provide support for, and improve the professional performance and advance the retention in the teaching field of, beginning teachers. Such program shall promote effective teaching skills and shall include the following components:

(a) High-quality teacher mentoring.

(b) Periodic, structured time for collaboration with teachers in the same department or field, including mentor teachers, as well as time for information-sharing among teachers, principals, administrators, other appropriate instructional staff, and participating faculty in the partner institution.

(c) The application of empirically-based practice and scientifically valid research on instructional practices.

(d) Opportunities for new teachers to draw directly on the expertise of teacher mentors, faculty, and researchers to support the integration of empirically-based practice and scientifically valid research with practice.

(e) The development of skills in instructional and behavioral interventions derived from empirically-based practice and, where applicable, scientifically valid research.

(f) Faculty who—

(i) Model the integration of research and practice in the classroom; and

(ii) Assist new teachers with the effective use and integration of technology in the classroom.

(g) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers with respect to the learning process and the assessment of learning.

(h) Assistance with the understanding of data, particularly student achievement data, and the applicability of such data in classroom instruction.

(i) Regular and structured observation and evaluation of new teachers by multiple evaluators, using valid and reliable measures of teaching skills.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

Limited English proficient [1] when used with respect to an individual, means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet the State's proficient level of achievement on State assessments described in section 1111(b)(3);

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society.

Novice applicant means any applicant for a grant from the Department that—

(i) Has never received a grant or subgrant under the program from which it seeks funding;

(ii) Has never been a member of a group application, submitted in accordance with 34 CFR 75.127–75.129, that received a grant under the program from which it seeks funding; and

(iii) Has not had an active discretionary grant from the Federal Government in the five years before the deadline date for applications under the program.

(2) In the case of a group application submitted in accordance with 34 CFR 75.127–75.129, a group that includes only parties that meet the requirements of paragraph (1) of this definition.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Partner institution means an IHE, which may include a two-year IHE offering a dual program with a partner four-year IHE, participating in an

[1] ESEA uses the term ''English learner;'' however, the cross-reference from the HEA is the term ''limited English proficient.''

eligible partnership that has a teacher preparation program—

(i) Whose graduates exhibit strong performance on State determined qualifying assessments for new teachers through—

(A) Demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

(B) Being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

(1) Using criteria consistent with the requirements for the State Report Card under section 205(b) of the HEA before the first publication of the report card; and

(2) Using the State report card on teacher preparation required under section 205(b), after the first publication of such report card and for every year thereafter; and

(ii) That requires—

(A) Each student in the program to meet high academic standards or demonstrate a record of success, as determined by the institution (including prior to entering and being accepted into a program), and participate in intensive clinical experience;

(B) Each student in the program preparing to become a teacher who meets the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA; and

(C) Each student in the program preparing to become an early childhood educator to meet degree requirements, as established by the State, and become highly competent.

Professional development means activities that—

(A) Are an integral part of school and local educational agency strategies for providing educators (including teachers, principals, other school leaders, specialized instructional support personnel, paraprofessionals, and, as applicable, early childhood educators) with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging State academic standards; and

(B) Are sustained (not stand-alone, one-day, or short term workshops), intensive, collaborative, job-embedded, data-driven, and classroom-focused, and may include activities that—

(i) Improve and increase teachers' teachers'—

(I) Knowledge of the academic subjects the teachers teach;

(II) Understanding of how students learn; and

(III) Ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on such analysis;

(ii) Are an integral part of broad schoolwide and districtwide educational improvement plans;

(iii) Allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) Improve classroom management skills;

(v) Support the recruitment, hiring, and training of effective teachers, including teachers who became certified through State and local alternative routes to certification;

(vi) Advance teacher understanding of—

(I) Effective instructional strategies that are evidence-based; and

(II) Strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of teachers;

(vii) Are aligned with, and directly related to, academic goals of the school or local educational agency;

(viii) Are developed with extensive participation of teachers, principals, other school leaders, parents, representatives of Indian Tribes (as applicable), and administrators of schools to be served under the ESEA;

(ix) Are designed to give teachers of English learners, and other teachers and instructional staff, the knowledge and skills to provide instruction and appropriate language and academic support services to those children, including the appropriate use of curricula and assessments;

(x) To the extent appropriate, provide training for teachers, principals, and other school leaders in the use of technology (including education about the harms of copyright piracy), so that technology and technology applications are effectively used in the classroom to improve teaching and learning in the curricula and academic subjects in which the teachers teach;

(xi) As a whole, are regularly evaluated for their impact on increased teacher effectiveness and improved student academic achievement, with the findings of the evaluations used to improve the quality of professional development;

(xii) Are designed to give teachers of children with disabilities or children with developmental delays, and other teachers and instructional staff, the knowledge and skills to provide instruction and academic support services, to those children, including positive behavioral interventions and supports, multi-tier system of supports, and use of accommodations;

(xiii) Include instruction in the use of data and assessments to inform and instruct classroom practice;

(xiv) Include instruction in ways that teachers, principals, other school leaders, specialized instructional support personnel, and school administrators may work more effectively with parents and families;

(xv) Involve the forming of partnerships with institutions of higher education, including, as applicable, Tribal Colleges and Universities as defined in section 316(b) of the HEA (20 U.S.C. 1059c(b)), to establish school-based teacher, principal, and other school leader training programs that provide prospective teachers, novice teachers, principals, and other school leaders with an opportunity to work under the guidance of experienced teachers, principals, other school leaders, and faculty of such institutions;

(xvi) Create programs to enable paraprofessionals (assisting teachers employed by a local educational agency receiving assistance under part A of title I of the ESEA) to obtain the education necessary for those paraprofessionals to become certified and licensed teachers;

(xvii) Provide follow-up training to teachers who have participated in activities described in this paragraph that are designed to ensure that the knowledge and skills learned by the teachers are implemented in the classroom; and

(xviii) Where practicable, provide jointly for school staff and other early childhood education program providers, to address the transition to elementary school, including issues related to school readiness.

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or

''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbook.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

Scientifically valid research means applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with principles of scientific research.

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1 or 3.0 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1 or 3.0 of the WWC Handbook, or otherwise assessed by the Department using version 3.0 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1 or 3.0 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement.

Teacher mentoring means the mentoring of new or prospective teachers through a program that—

(A) Includes clear criteria for the selection of teacher mentors who will provide role model relationships for mentees, which criteria shall be developed by the eligible partnership and based on measures of teacher effectiveness;

(B) Provides high-quality training for such mentors, including instructional strategies for literacy instruction and classroom management (including approaches that improve the schoolwide climate for learning, which may include positive behavioral interventions and supports);

(C) Provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the day in a high-need school in the high-need local educational agency in the eligible partnership;

(D) Provides paid release time for mentors, as applicable;

(E) Provides mentoring to each mentee by a colleague who teaches in the same field, grade, or subject as the mentee;

(F) Promotes empirically-based practice of, and scientifically valid research on, where applicable—

(i) Teaching and learning;

(ii) Assessment of student learning;

(iii) The development of teaching skills through the use of instructional and behavioral interventions; and

(iv) The improvement of the mentees' capacity to measurably advance student learning; and

(G) Includes—

(i) Common planning time or regularly scheduled collaboration for the mentor and mentee; and

(ii) Joint professional development opportunities.

What Works Clearinghouse Handbook (WWC Handbook) means the standards and procedures set forth in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (incorporated by reference, see 34 CFR 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the Handbook documentation.

Program Authority: 20 U.S.C. 1021–1022c.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of the Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally-recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $17,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards: $300,000–$1,000,000.

Estimated Average Size of Awards: $750,000 for the first year of the project. Funding for the second, third, fourth, and fifth years is subject to the

availability of funds and the approval of continuation awards (see 34 CFR 75.253).

Maximum Award: We will not make an award exceeding $1,000,000 to any applicant per 12-month budget period.

Estimated Number of Awards: 20.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* An eligible applicant must be an ''eligible partnership'' as defined in section 200(6) of the HEA. The term ''eligible partnership'' means an entity that—

(1) Must include:

(i) A high-need LEA;

(ii)(A) A high-need school or a consortium of high-need schools served by the high-need LEA, or

(B) As applicable, a high-need ECE program;

(iii) A partner institution;

(iv) A school, department, or program of education within such partner institution, which may include an existing teacher professional development program with proven outcomes within a four-year IHE that provides intensive and sustained collaboration between faculty and LEAs consistent with the requirements of title II of the HEA; and

(v) A school or department of arts and sciences within such partner institution; and

(2) May include any of the following—

(i) The Governor of the State.

(ii) The State educational agency.

(iii) The State board of education.

(iv) The State agency for higher education.

(v) A business.

(vi) A public or private nonprofit educational organization.

(vii) An educational service agency.

(viii) A teacher organization.

(ix) A high-performing LEA, or a consortium of such LEAs, that can serve as a resource to the partnership.

(x) A charter school (as defined in section 7221i of the ESEA).

(xi) A school or department within the partner institution that focuses on psychology and human development.

(xii) A school or department within the partner institution with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

(xiii) An entity operating a program that provides alternative routes to State certification of teachers.

Any of the mandatory or optional entities in the partnership may be the fiscal agent of the grant.

Note: So that the Department can confirm the eligibility of the LEA(s) that an applicant proposes to serve, applicants must include information in their applications that demonstrates that each LEA to potentially be served by the project is a ''high-need LEA'' (as defined in this notice).

Note: An LEA includes a public charter school that operates as an LEA.

Applicants should review the application package for additional information on determining whether an LEA meets the definition of ''high-need LEA.''

More information on eligible partnerships can be found in the TQP FAQ document found on the program website at *http://innovation.ed.gov/what-we-do/teacher-quality/teacher-quality-partnership/.*

2. a. *Cost Sharing or Matching:*

Under section 203(c) of the HEA (20 U.S.C. 1022b), each grant recipient must provide, from non-Federal sources, an amount equal to 100 percent of the amount of the grant, which may be provided in cash or in-kind, to carry out the activities supported by the grant. Grantees must budget their matching contributions on an annual basis relative to each annual award of TQP program funds.

Section 203(c) of the HEA also authorizes the Secretary to waive this matching requirement for any fiscal year for an eligible partnership if the Secretary determines that applying the matching requirement to the eligible partnership would result in serious hardship or an inability to carry out the authorized activities described in section 202 of the HEA. Applicants that wish to apply for a waiver for year one or for future years of the project may include a request in their application that describes why the 100 percent matching requirement would cause serious hardship or an inability to carry out project activities. Further information about applying for waivers can be found in the application package. However, given the importance of matching funds to the long-term success of the project, the Secretary expects eligible entities to identify appropriate matching funds.

b. *Supplement-Not-Supplant:* This program involves supplement, not supplant funding requirements. In accordance with section 202(k) of the HEA, funds made available under this program must be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this program.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Other:*

a. *Limitation on administrative expenses*

An eligible partnership that receives a grant under this program may use not more than two percent of the funds provided to administer the grant as required by HEA section 203(d) (20 U.S.C. 1022b(d)).

b. *General Application Requirements:*

All applicants must meet the following general application requirements in order to be considered for funding. Except as specifically noted, the general application requirements are from HEA section 202(b) (20 U.S.C. 1022a(b)).

Each eligible partnership desiring a grant under this program must submit an application that contains—

(a) A needs assessment of the partners in the eligible partnership with respect to the preparation, ongoing training, professional development, and retention of general education and special education teachers, principals, and, as applicable, early childhood educators;

(b) A description of the extent to which the program to be carried out with grant funds, as described in Absolute Priority 1 or 2 in this notice, will prepare prospective and new teachers with strong teaching skills;

(c) A description of how such a program will prepare prospective and new teachers to understand and use research and data to modify and improve classroom instruction;

(d) A description of—

(1) How the eligible partnership will coordinate strategies and activities assisted under the grant with other teacher preparation or professional development programs, including programs funded under the ESEA and the IDEA, and through the National Science Foundation; and

(2) How the activities of the partnership will be consistent with State, local, and other education reform activities that promote teacher quality and student academic achievement;

(e) An assessment that describes the resources available to the eligible partnership, including—

(1) The integration of funds from other related sources;

(2) The intended use of the grant funds; and

(3) The commitment of the resources of the partnership to the activities assisted under this program, including financial support, faculty participation, and time commitments, and to the continuation of the activities when the grant ends.

(f) A description of—

(1) How the eligible partnership will meet the purposes of the TQP program as specified in section 201 of the HEA;

(2) How the partnership will carry out the activities required under Absolute Priorities 1 or 2, as described in this notice, based on the needs identified in paragraph (a), with the goal of improving student academic achievement;

(3) If the partnership chooses to use funds under this section for a project or activities under section 202(f) of the HEA, how the partnership will carry out such project or required activities based on the needs identified in paragraph (a), with the goal of improving student academic achievement;

(4) The partnership's evaluation plan under section 204(a) of the HEA;

(5) How the partnership will align the teacher preparation program with the—

(i) State early learning standards for ECE programs, as appropriate, and with the relevant domains of early childhood development; and

(ii) Challenging State academic standards under section 1111(b)(1) of the ESEA, established by the State in which the partnership is located;

(6) How the partnership will prepare general education teachers to teach students with disabilities, including training related to participation as a member of individualized education program teams, as defined in section 614(d)(1)(B) of the IDEA;

(7) How the partnership will prepare general education and special education teachers to teach students who are limited English proficient;

(8) How faculty at the partner institution will work during the term of the grant, with teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA, in the classrooms of high-need schools served by the high-need LEA in the partnership to—

(i) Provide high-quality professional development activities to strengthen the content knowledge and teaching skills of elementary school and secondary school teachers; and

(ii) Train other classroom teachers to implement literacy programs that incorporate the essential components of reading instruction;

(9) How the partnership will design, implement, or enhance a year-long and rigorous teaching preservice clinical program component;

(10) How the partnership will support in-service professional development strategies and activities; and

(11) How the partnership will collect, analyze, and use data on the retention of all teachers and early childhood educators in schools and ECE programs located in the geographic area served by the partnership to evaluate the effectiveness of the partnership's teacher and educator support system.

(g) With respect to the induction program required as part of the activities carried out under Absolute Priorities 1 or 2—

(1) A demonstration that the schools and departments within the IHE that are part of the induction program will effectively prepare teachers, including providing content expertise and expertise in teaching, as appropriate;

(2) A demonstration of the eligible partnership's capability and commitment to, and the accessibility to and involvement of faculty in, the use of empirically based practice and scientifically valid research on teaching and learning;

(3) A description of how the teacher preparation program will design and implement an induction program to support, through not less than the first two years of teaching, all new teachers who are prepared by the teacher preparation program in the partnership and who teach in the high-need LEA in the partnership, and, to the extent practicable, all new teachers who teach in such high-need LEA, in the further development of the new teachers' teaching skills, including the use of mentors who are trained and compensated by such program for the mentors' work with new teachers; and

(4) A description of how faculty involved in the induction program will be able to substantially participate in an ECE program or elementary school or secondary school classroom setting, as applicable, including release time and receiving workload credit for such participation.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) or at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the TQP program, your application may include business information that you consider proprietary. In 34 CFR 5.11, we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you feel is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We specify unallowable costs in 2 CFR 200, subpart E. We reference regulations outlining funding restrictions in the Applicable Regulations section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

6. *Notice of Intent to Apply:* The Department will be able to develop a more efficient process for reviewing

grant applications if it has a better understanding of the number of entities that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify the Department of its intent to submit an application for funding by sending an email to *tqpartnership@ed.gov* with *FY 18 TQP Intent to Apply* in the subject line, by June 11, 2018. Applicants that fail to send the FY TQP 18 Intent to Apply email may still apply for funding.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210. An applicant may earn up to a total of 100 points based on the selection criteria. The maximum score for each criterion is indicated in parentheses. Each criterion also includes the sub-factors that the reviewers will consider in determining how well an application meets the criterion. The criteria are as follows:

(a) *Quality of Project Services* (up to 15 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors—

(i) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(ii) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(iii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(b) *Quality of the Project Design* (up to 40 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors—

(i) The extent to which the proposed project demonstrates a rationale (as defined in 34 CFR 77.1(c)).

(ii) The extent to which the goals, objectives and outcomes to be achieved by the proposed project are clearly specified and measureable;

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the proposed project represents an exceptional approach to the priority or priorities established for this competition.

(c) *Quality of the Management Plan* (up to 25 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors—

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(ii) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding;

(iii) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(d) *Quality of the Project Evaluation* (up to 20 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors—

(i) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes.

(ii) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license shall extend only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* The goal of the TQP program is to increase student achievement in K–12 schools by developing teachers who meet applicable State certification and licensure requirements.

Note: If funded, grantees will be asked to collect and report data on these measures in their project's annual performance reports (34 CFR 75.590). Applicants are also advised to consider these measures in conceptualizing the design, implementation, and evaluation of their proposed projects because of their importance in the application review process. Collection of data on these measures should be a part of the evaluation plan, along with measures of progress on goals and objectives that are specific to your project.

All grantees will be expected to submit an annual performance report documenting their success in addressing these performance measures.

Under the Grants Performance Results Act (GPRA), the following measures will be used by the Department in assessing the performance of this program:

(a) *Performance Measure 1: Certification/Licensure.* The percentage of program graduates who have attained initial State certification/licensure by passing all necessary licensure/certification assessments within one year of program completion.

(b) *Performance Measure 2: STEM Graduation.* The percentage of math/science program graduates that attain initial certification/licensure by passing all necessary licensure/certification assessments within one year of program completion.

(c) *Performance Measure 3: One-Year Persistence.* The percentage of program participants who were enrolled in the postsecondary program in the previous grant reporting period, did not graduate, and persisted in the postsecondary program in the current grant reporting period.

(d) *Performance Measure 4: One-Year Employment Retention.* The percentage of program completers who were employed for the first time as teachers of record in the preceding year by the partner high-need LEA or ECE program and were retained for the current school year.

(e) *Performance Measure 5: Three-Year Employment Retention.* The percentage of program completers who were employed by the partner high-need LEA or ECE program for three consecutive years after initial employment.

(f) *Performance Measure 6: Student Learning.* The percentage of grantees that report improved aggregate learning outcomes of students taught by new teachers. These data can be calculated using student growth, a teacher evaluation measure, or both. (This measure is optional and not required as part of GPRA reporting.)

(g) *Efficiency Measure:* The Federal cost per program completer. (This data will not be available until the final year of the project period.)

Applicants must also address the evaluation requirements in section 204(a) of the HEA. This section asks applicants to develop objectives and measures for increasing:

(1) Achievement for all prospective and new teachers, as measured by the eligible partnership;

(2) Teacher retention in the first three years of a teacher's career;

(3) Improvement in the pass rates and scaled scores for initial State certification or licensure of teachers; and

(4) The percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA (20 U.S.C. 1412(a)(14)(C)), hired by the high-need LEA participating in the eligible partnership;

(5) The percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA (20 U.S.C. 1412(a)(14)(C)), hired by the high-need LEA who are members of underrepresented groups;

(6) The percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA (20 U.S.C. 1412(a)(14)(C)), hired by the high-need LEA who teach high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages and critical foreign languages);

(7) The percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications

described in section 612(a)(14)(C) of the IDEA (20 U.S.C. 1412(a)(14)(C)), hired by the high-need LEA who teach in high-need areas (including special education, language instruction educational programs for limited English proficient students, and early childhood education);

(8) The percentage of teachers who meet the applicable State certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification, or, with regard to special education teachers, the qualifications described in section 612(a)(14)(C) of the IDEA (20 U.S.C. 1412(a)(14)(C)), hired by the high-need LEA who teach in high-need schools, disaggregated by the elementary school and secondary school levels;

(9) As applicable, the percentage of early childhood education program classes in the geographic area served by the eligible partnership taught by early childhood educators who are highly competent; and

(10) As applicable, the percentage of teachers trained—

(i) To integrate technology effectively into curricula and instruction, including technology consistent with the principles of universal design for learning; and

(ii) To use technology effectively to collect, manage, and analyze data to improve teaching and learning for the purpose of improving student academic achievement.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations 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 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.

Dated: May 8, 2018.

Margo Anderson,

Acting Assistant Deputy Secretary for Innovation and Improvement.

[FR Doc. 2018–10124 Filed 5–10–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–42–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH Rates effective 4–2–2018.
Filed Date: 4/24/18.
Accession Number: 201804245078.
Comments/Protests Due: 5 p.m. ET 5/15/18.

Docket Number: PR18–44–000.
Applicants: Louisville Gas and Electric Company.
Description: Tariff filing per 284.123(b),(e)/: Revised Statement of Operating Conditions TCJA Surcredit to be effective 4/1/2018.
Filed Date: 5/1/18.
Accession Number: 201805015381.
Comments/Protests Due: 5 p.m. ET 5/22/18.

Docket Number: PR18–45–000.
Applicants: UGI Utilities, Inc.
Description: Tariff filing per 284.123(b),(e)+(g): Application for Authorization for Limited Jurisdiction Transportation Service to be effective 10/1/2018.
Filed Date: 5/2/18.
Accession Number: 201805025155.
Comments Due: 5 p.m. ET 5/23/18.
284.123(g) Protests Due: 5 p.m. ET 7/2/18.

Docket Number: PR18–46–000.
Applicants: UGI Central Penn Gas, Inc.
Description: Tariff filing per 284.123(b),(e)/: Application to Abandon Limited Jurisdiction Certificate to be effective 10/1/2018.
Filed Date: 5/2/18.
Accession Number: 201805025156.
Comments/Protests Due: 5 p.m. ET 5/23/18.

Docket Number: PR18–47–000.
Applicants: UGI Penn Natural Gas, Inc.
Description: Tariff filing per 284.123(e)/.224: Cancellation of SOC and Certificate to be effective 10/1/2018.
Filed Date: 5/3/18.
Accession Number: 201805035000.
Comments/Protests Due: 5 p.m. ET 5/24/18.

Docket Number: PR17–57–003.
Applicants: Houston Pipe Line Company LP.
Description: Tariff filing per 284.123(b),(e)+(g): 3rd Amended Rate Election of Houston Pipe Line Company LP Effective 11/01/2017.
Filed Date: 5/3/18.
Accession Number: 201805035041.
Comments Due: 5 p.m. ET 5/24/18.
284.123(g) Protests Due: 5 p.m. ET 7/2/18.

Docket Numbers: RP18–771–000.
Applicants: Chandeleur Pipe Line, LLC.
Description: Imbalance Annual True-Up Filing Waiver Request of Chandeleur Pipe Line, LLC.
Filed Date: 4/30/18.
Accession Number: 20180430–5455.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–702–001.
Applicants: National Fuel Gas Supply Corporation.
Description: Tariff Amendment: Amendment to RP18–702 to be effective 6/1/2018.
Filed Date: 5/2/18.
Accession Number: 20180502–5178.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–276–001.
Applicants: Southern Star Central Gas Pipeline, Inc.
Description: Compliance filing Gas Quality Resolution to be effective 4/26/2018.

Filed Date: 5/3/18.
Accession Number: 20180503–5036.
Comments Due: 5 p.m. ET 5/15/18.

Docket Numbers: RP18–794–000.
Applicants: Gulf Crossing Pipeline Company LLC.
Description: § 4(d) Rate Filing: Cap Rel Neg Rate Agmt (Newfield 18 to Sequent 1982) to be effective 5/3/2018.
Filed Date: 5/3/18.
Accession Number: 20180503–5003.
Comments Due: 5 p.m. ET 5/15/18.

Docket Numbers: RP18–795–000.
Applicants: Arlington Storage Company, LLC.
Description: Compliance filing Compliance Filing to Implement Firm Wheeling Service to be effective 6/4/2018.
Filed Date: 5/3/18.
Accession Number: 20180503–5040.
Comments Due: 5 p.m. ET 5/15/18.

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: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10002 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–80–000.
Applicants: East Hampton Energy Storage Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of East Hampton Energy Storage Center, LLC.
Filed Date: 5/4/18.
Accession Number: 20180504–5140.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: EG18–81–000.
Applicants: Montauk Energy Storage Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Montauk Energy Storage Center, LLC.
Filed Date: 5/4/18.
Accession Number: 20180504–5141.
Comments Due: 5 p.m. ET 5/25/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1202–000.
Applicants: Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company, Wheeling Power Company, AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company Inc., AEP Kentucky Transmission Company, Inc., AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., PJM Interconnection, L.L.C.
Description: Report Filing: AEP submits an Informational Filing re: Revised Refund in Docket No. EL13 to be effective N/A.
Filed Date: 5/4/18.
Accession Number: 20180504–5178.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1518–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–05–04_Termination of SA 3021 Upland Prairie-MidAmerican E&P (J455) to be effective 5/5/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5132.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1519–000.
Applicants: Duke Energy Progress, LLC, Duke Energy Florida, LLC, Duke Energy Carolinas, LLC.
Description: Compliance filing: Joint OATT LGIA & SGIA Amendments—Order 842 (Primary Frequency Response) to be effective 5/15/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5134.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1520–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–05–04_Termination of SA 2986 MidAmerican-MidAmerican GIA (J501) to be effective 5/5/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5135.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1521–000.
Applicants: Southwestern Public Service Company.
Description: Petition of Southwestern Public Service Company for Waiver of Tariff Provisions, et al.
Filed Date: 5/4/18.
Accession Number: 20180504–5171.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: ER18–1522–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Cost Responsibility Agreement, Service Agreement No. 5086, Queue I01 to be effective 4/6/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5177.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1523–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee.
Description: Compliance filing: Revisions to ISO–NE Tariff in Compliance with FERC Order No. 842 to be effective 5/15/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5180.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1525–000.
Applicants: Tampa Electric Company.
Description: § 205(d) Rate Filing: Section 205—Ministerial Corrections to Pro Forma LGIA to be effective 5/5/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5191.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1526–000.
Applicants: Louisville Gas & Electric Company, Kentucky Utilities Company.
Description: Notice of Cancellation of Network Operating Agreement (Service Agreement 16) of Louisville Gas and Electric Company, et al.
Filed Date: 5/3/18.
Accession Number: 20180503–5150.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER18–1527–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Cost Responsibility Agreement, Service Agreement No. 5087, Queue L18 to be effective 4/6/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5204.
Comments Due: 5 p.m. ET 5/25/18.

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: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10001 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–143–000]

Notice of Complaint: Public Service Electric and Gas Company v. Consolidated Edison Company of New York, Inc.

Take notice that on May 3, 2018, pursuant to sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824e, 825e, and 825h and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Public Service Electric and Gas Company (Complainant) filed a formal complaint against Consolidated Edison Company of New York, Inc. (Respondent) alleging that Respondent is preventing the removal of dielectric fluid that recently leaked from electric transmission facilities known as the B and C lines that Complainant and Respondent co-own. Complainant asserts that good utility practice requires the removal of the dielectric fluid and retirement of the B and C lines as currently constructed, as more fully explained in the complaint.

Complainant certifies that copies of the complaint were served on contacts for the Respondent, the New York Public Service Commission, and the New Jersey Board of Public Utilities.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondents' answer and all interventions, or protests must be filed on or before the comment date. The Respondents' answer, motions to intervene, and protests must be served on the Complainant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 23, 2018.

Dated: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10005 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RD18–1–000, RD18–2–000, RD18–3–000 and RD18–5–000]

Commission Information Collection Activities; (FERC–725E); Comment Request; Revision

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of revised information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on revisions to the information collection, FERC–725E (Mandatory Reliability Standards for the Western Electric Coordinating Council), in Docket Nos. RD18–1–000, RD18–2–000, RD18–3–000, and RD18–5–000 and will be submitting FERC–725E to the Office of Management and Budget (OMB) for review of the information collection requirements.

DATES: Comments on the collection of information are due July 10, 2018.

ADDRESSES: You may submit comments identified by Docket Nos. RD18–1–000, RD18–2–000, RD18–3–000, and RD18–5–000 by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725E, Mandatory Reliability Standards for the Western Electric Coordinating Council.

OMB Control No.: 1902–0246.

Type of Request: Revision to FERC–725E information collection requirements, as discussed in Docket Nos. RD18–1–000 and RD18–3–000.

Abstract: The North American Electric Reliability Corporation (NERC) and Western Electricity Coordinating Council (WECC) filed four joint petitions to modify/retire WECC regional Reliability Standards.

On March 8 2018, NERC and WECC filed a joint petition in Docket No. RD18–2–000 [1] requesting Commission approval of:

- Regional Reliability Standard BAL–004–WECC–3 (Automatic Time Error Correction), and
- the retirement of existing regional Reliability Standard BAL–004–WECC–2.

The petition states: ''Regional Reliability Standard BAL–004–WECC–3

[1] The joint petition and exhibits are posted in the Commission's eLibrary system in Docket No. RD18–2–000 (BAL–004–WECC–3 Petition).

seeks to maintain Interconnection frequency and to ensure that Time Error Corrections and Primary Inadvertent Interchange (''PII'') payback are effectively conducted in a manner that does not adversely affect the reliability of the [Western] Interconnection.'' [2] The proposed modifications to the standard focus on the entities using a common tool. All other proposed changes are for clarification. The Commission is not changing the reporting requirements, nor is it modifying the burden, cost or respondents with this collection, and sees this as a non-material or non-substantive change to a currently approved collection.

On March 16, 2018, NERC and WECC filed a joint petition in Docket No. RD18–5–000 [3] requesting Commission approval of:

- Regional Reliability Standard FAC–501–WECC–2 (Transmission Maintenance), and
- the retirement of existing regional Reliability Standard FAC–501–WECC–1.

The petition states: ''The purpose of FAC–501–WECC–2 is to ensure the Transmission Owner of a transmission path identified in the table titled ''Major WECC Transfer Paths in the Bulk Electric System'' (''WECC Transfer Path Table'' or ''Table''), including associated facilities, has a Transmission Maintenance and Inspection Plan (''TMIP'') and performs and documents maintenance and inspection activities in accordance with the TMIP.'' The modifications to the existing standard are for clarification of the transmission owner's obligations and to directly incorporate the list of applicable transmission paths. This list is currently posted on the WECC website and has not changed. The Commission is not changing reporting requirements nor is it modifying the burden, cost or respondents with this collection, and sees this as a non-material or non-substantive change to a currently approved collection.

The Commission's request to OMB will reflect the following:

- Elimination of the burden associated with regional Reliability Standard VAR–002–WECC–2 (Automatic Voltage Regulators), which is proposed for retirement (addressed in Docket No. RD18–1 and discussed below); [4]
- elimination of the burden associated with regional Reliability Standard PRC–004–WECC–2 (Protection System and Remedial Action Scheme Misoperation), which is proposed for retirement (addressed in Docket No. RD18–3 and discussed below) [5]
- non-material or non-substantive changes (discussed above) in Docket Nos. RD18–2 and RD18–5.

On March 7, 2018, NERC and WECC filed a joint petition in Docket No. RD18–1–000 requesting Commission approval to retire the WECC regional Reliability Standard VAR–002–WECC–2 (Automatic Voltage Regulators). According to the petition, the purpose of the proposed retirement is based on WECC's experience with regional Reliability Standard VAR–002–WECC–2 which has shown that the reliability-related issues addressed in the regional standard are adequately addressed by the continent-wide voltage and reactive (''VAR'') Reliability Standards [6] and that retention of the regional standard would not provide additional benefits for reliability.

On March 9, 2018, NERC and WECC filed a joint petition in Docket No. RD18–3–000 requesting Commission approval to retire the WECC regional Reliability Standard PRC–004–WECC–2 (Protection System and Remedial Action Scheme Misoperation). The purpose of the proposed retirement is based on NERC and WECC's belief that since the initial development of this regional standard, other continent-wide Reliability Standards [7] have been developed that have made the requirements of this regional Reliability Standard redundant and no longer necessary for reliability in the Western Interconnection.

Type of Respondents: Transmission owners, transmission operators, generator operators, and generator owners.

Estimate of Annual Burden: [8] Details follow on the changes in Docket Nos. RD18–1–000 and RD18–3–000 which will be submitted to OMB for approval in a consolidated package under FERC–725E.

Estimate of Changes to Burden Due to Docket No. RD18–1: The Commission estimates the reduction in the annual public reporting burden for the FERC–725E (due to the retirement of regional Reliability Standard VAR–002–WECC–2) as follows: [9] [10]

[2] BAL–004–WECC–3 Petition, page 1.

[3] The joint petition and exhibits are posted in the Commission's eLibrary system in Docket No. RD18–5–000 (FAC–501–WECC–2 Petition).

[4] The joint petition and exhibits are posted in the Commission's eLibrary system in Docket No. RD18–1–000 (VAR–002–WECC–2 Petition).

[5] The joint petition and exhibits are posted in the Commission's eLibrary system in Docket No. RD18–3–000 (WECC PRC–004–WECC–2 Retirement Petition).

[6] The burdens related to continent-wide Reliability Standards VAR–001–4.2 (Voltage and Reactive Control) and VAR–002–4.1 (Generator Operation for Maintenance Network Voltage Schedules) are included in FERC–725A (Mandatory Reliability Standards for the Bulk-Power System, OMB Control No. 1902–0244).

[7] The burdens related to continent-wide Reliability Standards mentioned in the petition: FAC–003–4 (Transmission Vegetation Management) are included in FERC–725M (Mandatory Reliability Standards for the Bulk-Power System, OMB Control No. 1902–0263); PRC–001–1.1(ii) (System Protection Coordination) are included in FERC–725A (Mandatory Reliability Standards for the Bulk-Power System, OMB Control No. 1902–0244); PRC–004–5(i) (Protection System Misoperation Identification and Correction), PRC–005–6 (Protection System, Automatic Reclosing, and Sudden Pressure Relaying Maintenance), PRC–012–2 (Remedial Action Schemes) are included in FERC–725G (Mandatory Reliability Standards for the Bulk-Power System: PRC Standards, OMB Control No. 1902–0252); PRC–016–1 (Remedial Action Scheme Misoperations), PRC–017–1 (Remedial Action Scheme Maintenance and Testing), TOP–001–3 (Transmission Operations) and TOP–003–3 (Operational Reliability Data) are included in FERC–725A (Mandatory Reliability Standards for the Bulk-Power System, OMB Control No. 1902–0244).

[8] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[9] The reductions in burden and cost shown in the table are the same figures as those in the current OMB-approved inventory for the reporting and recordkeeping requirements that are now being retired.

[10] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics for three positions involved in the reporting and recordkeeping requirements. These figures include salary (*http://bls.gov/oes/current/naics2_22.htm*) and benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*) and are: Manager: $89.07/hour, Engineer: $64.91/hour, and File Clerk: $31.19/hour.

The hourly cost for the reporting requirements ($76.99) is an average of the cost of a manager and engineer. The hourly cost for recordkeeping requirements uses the cost of a file clerk.

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL, REDUCTIONS DUE TO DOCKET NO. RD18–1–000

Entity	Number of respondents (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours and cost per response ($) (4)	Total annual burden hours and total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1) = (6)
Retirement of Regional Reliability Standard VAR–002–WECC–2 and Associated Reductions						
Reporting Requirements (Annually)						
Generator Operators	228	1	228	10 hr.; $769.90	2,280 hr.; $175,537 (reduction)	$770 (reduction).
Transmission Operators applicable to standard VAR–002.	86	4	344	10 hr.; $769.90	3,440 hr.; $264,846 (reduction)	$3,080 (reduction).
Recordkeeping Requirements (Annually)						
Generator Operators	228	1	228	1 hr.; $31.19	228 hr.; $7,111 (reduction)	$31 (reduction).
Transmission Operators applicable to standard VAR–002.	86	1	86	4 hr.; $124.76	344 hr.; $10,729 (reduction)	$125 (reduction).
Total Reduction			886		6,292 hr.; $458,223 (reduction)	

Estimate of Changes to Burden Due to Docket No. RD18–3: The Commission estimates the reduction in the annual public reporting burden for the FERC–725E (due to the retirement of regional Reliability Standard PRC–004–WECC–2) as follows: [11] [12]

FERC–725E, MANDATORY RELIABILITY STANDARDS FOR THE WESTERN ELECTRIC COORDINATING COUNCIL, REDUCTIONS DUE TO DOCKET NO. RD18–3–000

Entity	Number of respondents (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours and cost per response ($) (4)	Total annualburden hours and total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1) = (6)
Retirement of Regional Reliability Standard PRC–004–WECC–2 and Associated Reductions						
Reporting Requirements (Annually)						
Transmission Owners that operate qualified transfer paths.	5	2	10	40 hr.; $3,079.60	400 hr.; $30,796 (reduction)	$6,159 (reduction).
Recordkeeping Requirements (Annually)						
Transmission Owners that operate qualified transfer paths.	5	1	5	6 hr.; $187.14	30 hr.; $936 (reduction)	$187 (reduction).
Total Reduction			15		430 hr.; $31,732 (reduction).	

Total Reduction in Burden for FERC–725E, for Submittal to OMB. The total reduction in burden due to the proposed retirements of regional Reliability Standards VAR–002–WECC–2 and PRC–004–WECC–2 is detailed below:

- Total Reduction of Annual Responses: 901.
- Total Reduction of Burden Hours: 6,722.
- Total Reduction of Burden Cost: $489,955.

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10006 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

[11] The reductions in burden and cost shown in the table are the same figures as those in the current OMB-approved inventory for the reporting and recordkeeping requirements, now being retired.

[12] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics for three positions involved in the reporting and recordkeeping requirements. These figures include salary (*http://bls.gov/oes/current/naics2_22.htm*) and benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*) and are: Manager: $89.07/hour, Engineer: $64.91/hour, and File Clerk: $31.19/hour. The hourly cost for the reporting requirements ($76.99) is an average of the cost of a manager and engineer. The hourly cost for recordkeeping requirements uses the cost of a file clerk.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–491–001]

Perryville Gas Storage LLC; Notice of Application

Take notice that on April 27, 2018, Perryville Gas Storage LLC (Perryville), having its principal place of business at Three Riverway, Suite 1350, Houston, Texas 77056, filed in the above referenced docket an application pursuant to section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations for an order amending the certificate of public convenience and necessity issued in Docket No. CP09–418–000, and amended in Docket Nos. CP11–159–000, CP12–460–000, CP13–23–000 and CP17–491–000, to authorize Perryville to make certain changes to its certificated project. Perryville proposes to amend its certificate for natural gas storage caverns, located in Franklin and Richland Parishes, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Specifically, the applicant proposes to amend two requirements of the Certificate issued in Docket No. CP17–491–000 on December 20, 2017: (i) Sonar survey requirement and (ii) wellbore integrity requirements. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to J. Gordon Pennington, Attorney at Law, 1101 30th Street NW, Suite 500, Washington, DC 20007, at (202) 625–4330, or by email at *pennington5@verzion.net.*

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 seven 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 7 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 May 29, 2018.

Dated: May 7, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–10073 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–134–000]

Longview Power, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On May 3, 2018, the Commission issued an order in Docket No. EL18–134–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether Longview Power, LLC's reactive supply and voltage control service rates may be unjust and unreasonable. *Longview Power, LLC,* 163 FERC ¶61,088 (2018).

The refund effective date in Docket No. EL18–134–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL18–134–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10004 Filed 5–10–18; 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: EC18–71–000.
Applicants: NorthWestern Corporation, NJR Clean Energy Ventures II Corporation.
Description: Supplement to March 6, 2018 Application of NorthWestern Corporation, et al. for FPA Section 203 Authorization.
Filed Date: 5/3/18.
Accession Number: 20180503–5066.
Comments Due: 5 p.m. ET 5/14/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2437–010.
Applicants: Arizona Public Service Company.
Description: Notice of Non-Material Change in Status of Arizona Public Service Company.
Filed Date: 5/3/18.
Accession Number: 20180503–5136.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER10–3199–004.
Applicants: MDU Resources Group, Inc.
Description: Second Supplement to December 29, 2017 Updated Market Analysis in the Central Region of MDU Resources Group, Inc.
Filed Date: 5/3/18.
Accession Number: 20180503–5137.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER18–614–002.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Response to Deficiency Letter issued April 3, 2018 in Docket No. ER18–614 to be effective 4/5/2018.
Filed Date: 5/3/18.
Accession Number: 20180503–5112.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER18–1515–000.
Applicants: MATL LLP.
Description: Compliance filing: Order No. 842 Compliance to be effective 5/15/2018.
Filed Date: 5/3/18.
Accession Number: 20180503–5114.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER18–1516–000.
Applicants: El Paso Electric Company.
Description: § 205(d) Rate Filing: Concurrence of EPE to APS Rate Schedule No. 152 to be effective 7/2/2018.
Filed Date: 5/3/18.
Accession Number: 20180503–5125.
Comments Due: 5 p.m. ET 5/24/18.

Docket Numbers: ER18–1517–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 3466, NQ77 re: Units 4 and 6 to be effective 11/28/2012.
Filed Date: 5/4/18.
Accession Number: 20180504–5124.
Comments Due: 5 p.m. ET 5/25/18.

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: May 4, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10000 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–260–000]

Transcontinental Gas Pipe Line Company, LLC; Notice of Application

Take notice that on April 23, 2018, Transcontinental Gas Pipe Line Company, LLC (Transco), having its principal place of business at P.O. Box 1396, Houston, Texas 77251 filed in the above referenced docket an application pursuant to section 7(b) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization to abandon its North Padre Island Block ''B'' Platform and offshore lateral facilities extending from North High Island Block 956 to approximately 3.5 miles from shore, Offshore Texas, referred to as NPI Lateral and NPI 956 Platform Abandonment Project (Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website 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, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Marg Camardello, Regulatory Analyst, P.O. Box 1396, Houston, Texas 77251, or telephone (713) 215–3380, or fax (713) 215–3483 or by emailing *Marg.r.camardello@williams.com.*

Specifically, Transco is requesting approval to abandon: (i) Approximately 21.6 miles of a 24-inch pipeline lateral extending from the North Padre Island Block 956 ''B'' Platform, to approximately 3.5 miles from shore, offshore Texas (NPI Lateral) and (ii) the North Padre Island Block 956 ''B'' Platform and appurtenant facilities located on the platform (NPI 956 Platform) in Offshore, Texas. Transco states that the Project will allow Transco to eliminate the need for future maintenance expenditures on facilities that are not needed to satisfy its current firm service obligations. The cost of the Project will be approximately $3.3 million.

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 seven 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 7 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: May 25, 2018.

Dated: May 4, 2018..

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10082 Filed 5–10–18; 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: EG18–82–000.
Applicants: Armadillo Flats Wind Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Armadillo Flats Wind Project, LLC.
Filed Date: 5/7/18.
Accession Number: 20180507–5080.
Comments Due: 5 p.m. ET 5/29/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1528–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Rev to OATT, OA and RAA RE: GDECS Further Ministerial Clean-Ups to be effective 7/3/2018.
Filed Date: 5/4/18.
Accession Number: 20180504–5224.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1529–000.
Applicants: Emera Maine.
Description: § 205(d) Rate Filing: Administrative Filing to Re-Collate Two Records to be effective 5/7/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5057.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1530–000.
Applicants: Lackawanna Energy Center LLC.
Description: Request of Lackawanna Energy Center LLC for Limited Waiver and Expedited Action.
Filed Date: 5/4/18.
Accession Number: 20180504–5248.
Comments Due: 5 p.m. ET 5/25/18.

Docket Numbers: ER18–1531–000.
Applicants: Hopewell Cogeneration LLC.
Description: § 205(d) Rate Filing: Notice of Succession to Market-Based Rate Tariff to be effective 5/8/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5097.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1532–000.
Applicants: Wisconsin Public Service Corporation.
Description: § 205(d) Rate Filing: W–1A and RS 87 FERC Form 1 Update to be effective 7/7/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5100.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1533–000.
Applicants: LG&E Energy Marketing Inc.
Description: Tariff Cancellation: LEM Notice of Cancellation of CBR Tariff to be effective 5/7/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5101.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1534–000.
Applicants: East Hampton Energy Storage Center, LLC.
Description: Baseline eTariff Filing: East Hampton Energy Storage Center, LLC Application for Market-Based Rates to be effective 7/6/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5110.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1535–000.
Applicants: Montauk Energy Storage Center, LLC.
Description: Baseline eTariff Filing: Montauk Energy Storage Center, LLC Application for Market-Based Rates to be effective 7/6/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5113.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1536–000.
Applicants: LG&E Energy Marketing Inc.
Description: Tariff Cancellation: LEM Notice of Cancellation of MBR Tariff to be effective 5/8/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5123.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1537–000.
Applicants: Louisville Gas and Electric Company.
Description: Tariff Cancellation: KYMEA NOA Cancellation to be effective 4/16/2018.
Filed Date: 5/7/18.
Accession Number: 20180507–5124.
Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1538–000.
Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 4849; Queue No. AA2–169 to be effective 6/1/2018.

Filed Date: 5/7/18.

Accession Number: 20180507–5166.

Comments Due: 5 p.m. ET 5/29/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 7, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10048 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2740–051]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing and 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. *Application Type:* Non-Capacity Amendment of License.

b. *Project No:* P–2740–051.

c. *Date Filed:* April 23, 2018.

d. *Applicant:* Duke Energy Carolinas, LLC (Duke Energy).

e. *Name of Project:* Bad Creek Pumped Storage Project.

f. *Location:* The project is located on the Bad and West Bad Creeks, in Oconee County, South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeffrey G. Lineberger, Duke Energy, 526 South Church Street, Mail Code EC–12Y, Charlotte, North Carolina 28202, (704) 382–5942.

i. *FERC Contact:* Zeena Aljibury, (202) 502–6065, *zeena.aljibury@ferc.gov.*

j. *Deadline for Filing Comments, Motions to Intervene, and Protests:* June 07, 2018.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or 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 docket number P–2740–051.

k. *Description of Request:* Duke Energy requests approval to upgrade and refurbish four Francis-type pump-turbines in the powerhouse, replace existing runners with Francis-type pump-turbine runners, and rehabilitate and/or upgrade the remaining components of the pump-turbine runners. Duke Energy states that the upgrades and refurbishment will result in an increase of the Project's maximum hydraulic capacity of less than 15 percent during generation. The turbine installation activities are planned as a multi-year process, with one turbine-runner replacement occurring per year from 2019 through 2023. During the turbine upgrades, the appropriate unit will be dewatered and isolated from head and tail-waters by closing the spherical valves and draft gates, and by sealing the spherical valves and draft tube gates to minimize leakage. Any work which requires the lowering or draining of the upper reservoir will take place during a common system outage planned for 2018. The new pump-turbine runners will pass water at a higher flow rate between the upper and lower reservoirs. The proposed updates will not change the amount of water being transferred between reservoirs or the reservoir level, therefore, water quality is not anticipated to be affected. Additionally, the potential impact on fish resources will be limited to those associated with the fish entrainment by the project turbines and no federally protected species will be impacted. Duke Energy notes the additional capacity and system flexibility will enhance the project's ability to support Duke Energy's electric system needs.

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* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–2740) 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.

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 protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. 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 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 commenting, 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 that 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: May 7, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–10074 Filed 5–10–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0236; FRL–9977–79–OLEM]

The Hazardous Waste Electronic Manifest System Advisory Board: Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for a three-year appointment to fill one vacancy on the Hazardous Waste Electronic Manifest System Advisory Board (the ''Board'') for a State Representative member with current experience in collecting manifests from generators and treatment, storage, and disposal facilities (TSDFs), and in tracking manifest data in state tracking systems/databases.

Pursuant to the Hazardous Waste Electronic Manifest Establishment Act (the ''e-Manifest Act'' or the ''Act''), EPA has established the Board to provide practical and independent advice, consultation, and recommendations to the EPA Administrator on the activities, functions, policies and regulations associated with the Hazardous Waste Electronic Manifest (e-Manifest) System.

DATES: Nominations should be received on or before June 11, 2018.

ADDRESSES: Submit your nominations, identified by docket identification (ID) number, EPA–HQ–OLEM–2018–0236, in the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Fred Jenkins, Designated Federal Officer (DFO), U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, (MC: 5303P), 1200 Pennsylvania Avenue NW, Washington, DC 20460, Phone: 703–308–7049; or by email: *jenkins.fred@epa.gov.*

SUPPLEMENTARY INFORMATION: The e-Manifest Act was signed into law on October 5, 2012 (*http://www.gpo.gov/fdsys/pkg/BILLS-112s710enr/pdf/BILLS-112s710enr.pdf*). Under the terms of the e-Manifest Act, 42 U.S.C. 6939(g), EPA is required to establish a national electronic Information Technology (IT) manifest system. This system is to enable users of the uniform hazardous waste manifest forms (EPA Form 8700–22 and Continuation Sheet 8700–22A) to have the option to more efficiently track their hazardous waste shipments electronically, in lieu of the paper manifest, from the point of generation, during transportation, and to the point of receipt by an off-site facility that is permitted to treat, store, recycle, or dispose of the hazardous waste. Electronic manifests obtained from the national system will augment or replace the paper forms that are currently used for this purpose, and that result in substantial paperwork costs and other inefficiencies. Congress intended that EPA develop a system that, among other things, meets the needs of the user community and decreases the administrative burden associated with the current paper-based manifest system on the user community. The EPA estimates e-Manifest will save state and industry users, on average, an annualized $66 million per year over the first six years of system operation, and more than $90 million once electronic manifests have been widely adopted. The system will establish a national reporting hub and database for all manifests and shipment data. To ensure that these goals are met, the Act directs EPA to establish the Board to assess the effectiveness of the electronic manifest system and make recommendations to the Administrator for improving the system.

In addition, the e-Manifest Act directs EPA to develop a system that attracts sufficient user participation and service revenues to ensure the viability of the system. As a result, the Act provides EPA broad discretion to establish reasonable user fees, as the Administrator determines are necessary, to pay costs incurred in developing, operating, maintaining, and upgrading the system, including any costs incurred in collecting and processing data from any paper manifest submitted to the system after the system enters operation. The Board will meet to assess the adequacy and reasonableness of the service fees and, if necessary, make recommendations to the Administrator to adjust the fees accordingly.

The Board will be asked to provide recommendations on important system development matters and on potential increases or decreases to the amount of a service fee determined under the fee structure. Substantial system development planning work is underway. The Agency is utilizing lean start-up product development strategies with agile, user-centered design and development methodologies, and is currently conducting additional system development procurement activities. The Agency expects the initial system deployment to occur on June 30, 2018.

The system will provide the functionality of the current paper manifest process, in a more efficient electronic workflow, and will meet all requirements specified in the e-Manifest Act and e-Manifest Final Rule, which was published on February 7, 2014 (*www.epa.gov/e-Manifest*). The initial system is envisioned to be a national, electronic system (internet-based) that will enable current users of the manifest form to sign, transmit, archive, and retrieve manifests electronically. The e-Manifest system is further envisioned to allow a fully electronic mobile workflow. The mobile workflow will provide both on-line and off-line capabilities which could enable users to complete an electronic manifest even when internet access is unavailable. EPA envisions that the system will provide all data processing (paper and electronic formats), data storage, and data reporting back out to industry and state users, as well as appropriate public accessibility of data. Finally, e-Manifest aligns with the Agency's E-Enterprise business strategy. E-Enterprise for the Environment is a transformative 21st century strategy—jointly governed by states and EPA—for modernizing government agencies' delivery of environmental protection. Under this strategy, the Agency will streamline its business processes and systems to reduce reporting burden on states and regulated facilities, and improve the effectiveness and efficiency of

regulatory programs for EPA, states and tribes.

Although the system has not been completed, the Board is established in accordance with the provisions of the e-Manifest Act and the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The Board is in the public interest and supports EPA in performing its duties and responsibilities. Pursuant to the e-Manifest Act the Board will be comprised of nine members, of which one member is the Administrator (or a designee), who will serve as Chairperson of the Board, and eight members will be individuals appointed by the EPA Administrator:

- At least two of whom have expertise in information technology (IT);
- At least three of whom have experience in using, or represent users of, the manifest system to track the transportation of hazardous waste under federal and state manifest programs; and
- At least three state Representatives responsible for processing those manifests.

The Board will meet at least annually as required by the e-Manifest Act. However, additional meetings may occur approximately once every six months or as needed and approved by the DFO.

Member Nominations: Pursuant to the e-Manifest Act, the Board will assist the Agency in evaluating the effectiveness of the e-Manifest IT system and associated user fees; identifying key issues associated with the system, including the need (and timing) for user fee adjustments; system enhancements; and providing independent advice on matters and policies related to the e-Manifest program. The Board will provide recommendations on matters related to the operational activities, functions, policies, and regulations of EPA under the e-Manifest Act, including proposing actions to encourage the use of the electronic (paperless) system, and actions related to the E-Enterprise strategy that intersect with e-Manifest. These intersections may include issues such as business to business communications, performance standards for mobile devices, and Cross Media Electronic Reporting Rule (CROMERR) compliant e-signatures.

Any interested person and/or organization may nominate qualified individuals for membership. EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the Agency encourages nominations of women and men of all racial and ethnic groups. All candidates will be considered and screened against the criteria listed below. Currently there is one State Representative member position available to be filled on the Board. The other positions have already been filled pursuant to EPA's requests for nominations that were previously published in the **Federal Register** (80 FR 8643, February 18, 2015 and 81 FR 49650, July 28, 2016). State Representative nominees should have a comprehensive knowledge of hazardous waste generation, transportation, treatment, storage, and disposal under RCRA Subtitle C at the federal, state, and local levels. They should also have comprehensive knowledge of state programs that currently collect manifests from generators and treatment, storage, and disposal facilities (TSDFs), and track manifest data in state tracking systems/databases. Existing knowledge of, or willingness to gain an understanding of EPA shared services and enterprise architecture is a plus as is experience in setting and managing fee-based systems in general. Additional criteria used to evaluate nominees include:

- Excellent interpersonal, oral, and written communication skills;
- Demonstrated experience developing group recommendations;
- Willingness to commit time to the Board and demonstrated ability to work constructively on committees;
- Background and experiences that would help members contribute to the diversity of perspectives on the Board, *e.g.,* geographic, economic, social, cultural, educational backgrounds, professional affiliations, and other considerations.

Nominations must include a resume, which provides the nominee's background, experience and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Board and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they believe would be useful for consideration, such as: Availability to participate as a member of the Board; how the nominee's background, skills and experience would contribute to the diversity of the Board; and any concerns the nominee has regarding membership. Nominees should be identified by name, occupation, position, current business address, email, and telephone number. Interested candidates may self-nominate. The Agency will acknowledge receipt of nominations. The person selected for membership will receive compensation for travel.

Dated: April 30, 2018.

Barnes Johnson,

Director, Office of Resource Conservation and Recovery, Office of Land and Emergency Management.

[FR Doc. 2018–10113 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2018–0065; FRL–9977–92–OARM]

Proposed Information Collection Request; Comment Request; Drug Testing for Contractor Employees (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Drug Testing for Contractor Employees (Renewal)'' (EPA ICR No. 2183.08, OMB Control No. 2030–0044) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through August 31, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 10, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OARM–2018–0065 online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Thomas Valentino, Policy Training and Oversight Division, Office of Acquisition Management (3802R),

Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–4522; email address: *valentino.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR applies to a contractor who performs response services at sensitive sites with serious security concerns where the Agency and public interest would best be protected through drug testing of contractor employees. It requires the contractor to test employees for the use of marijuana, cocaine, opiates, amphetamines, phencyclidine (PCP), and any other controlled substances. Only contractor employees who have been tested within the previous 90 calendar days and have passing drug test results may be directly engaged in on-site response work and/or on-site related activities at designated sites with significant security concerns. The Agency may request contractors responding to any of these types of incidents to conduct drug testing and apply Government-established suitability criteria in Title 5 CFR Administrative Personnel 731.104 *Appointments Subject to Investigation,* 732.201 *Sensitivity Level Designations and Investigative Requirements,* and 736.102 *Notice to Investigative Sources* when determining whether employees are acceptable to perform on given sites or on specific projects.

Form Numbers: None.

Respondents/affected entities: Private Contractors

Respondent's obligation to respond: Required to obtain a benefit per Title 5 CFR Administrative Personnel 731.104 *Appointments Subject to Investigation,* 732.201 *Sensitivity Level Designations and Investigative Requirements,* and 736.102 *Notice to Investigative Sources.*

Estimated number of respondents: 500 (total).

Frequency of response: Annual

Total estimated burden: 1,125 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $129,100 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: May 3, 2018.

Kimberly Y. Patrick,

Director, Office of Acquisition Management.

[FR Doc. 2018–10121 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9039–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7156 or *https://www2.epa.gov/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 04/30/2018 Through 05/04/2018

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search.*

EIS No. 20180086, Final, USFS, CO, Final Environmental Impact Statement for Glade Rangeland Management, Review Period Ends: 06/11/2018, Contact: Deborah Kill 970–882–6822.

EIS No. 20180087, Draft, USDA, NAT, Southern Gardens Citrus Nursery, LLC Permit to Release Genetically Engineered Citrus Tristeza Virus Draft Environmental Impact Statement, Comment Period Ends: 06/25/2018, Contact: Dr. Sidney Abel 301–851–3896.

EIS No. 20180088, Draft, FHWA, ND, U.S. Highway 85_I–94 Interchange to Watford City Bypass (McKenzie County Road 30), Comment Period Ends: 06/25/2018, Contact: Kevin Brodie 701–221–9467.

EIS No. 20180089, Final, USACE, CA, Mather Specific Plan Project, Review Period Ends: 06/11/2018, Contact: Mary Pakenham-Walsh 916–557–7718.

EIS No. 20180090, Draft, NMFS, MA, Amendment 8 to the Atlantic Herring Fishery Management Plan, Comment Period Ends: 06/25/2018, Contact: Carrie Nordeen 978–281–9272.

EIS No. 20180091, Draft, BLM, CO, Draft Environment Impact Statement for the Blue Valley Ranch Land Exchange, Comment Period Ends: 06/25/2018, Contact: Annie Sperandio 970–724–3062.

EIS No. 20180092, Draft, USFS, NM, Luna Restoration Project, Comment Period Ends: 06/25/2018, Contact: Emily Irwin 575–773–4678.

EIS No. 20180093, Final, USFS, NM, Santa Fe National Forest Geothermal Leasing Final Environmental Impact Statement, Comment Period Ends: 06/11/2018, Contact: Larry Gore 575–289–3264.

EIS No. 20180094, Final Supplement, USFS, NM, Supplement to the Final EIS for Invasive Plant Control Project, Comment Period Ends: 06/11/2018, Contact: Sandra Imler-Jacquez 505–438–5443.

Amended Notice

Revision to the **Federal Register** Notice published 05/04/2018, EIS No. 20180078, Draft, FHWA, TX, Oakhill Parkway, change lead agency to TX DOT, pursuant to 23 U.S.C. 327, Contact: Carlos Swonke 512–416–2734.

Adoption

USFS has adopted the NPS Final EIS No. 20180077, Olympic National Park Mountain Goat Management Plan, filed 04/27/2018 with EPA. USFS was a cooperating agency; therefore, recirculation of the document was not necessary under Section 1506.3(b) of the CEQ Regulations.

Dated: May 8, 2018.

Kelly Knight,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2018–10126 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9977–95—Region 2]

Proposed CERCLA Section 122(h) Cost Recovery Settlement for the Global Landfill Superfund Site, Middlesex County, New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region 2, of a proposed cost recovery settlement agreement pursuant to section 122(h) of CERCLA, between the EPA and 15 settling parties (''Settling Parties'') regarding the Global Landfill Superfund Site (''Site''), located in Middlesex County, New Jersey. Pursuant to the proposed cost recovery settlement agreement, Settling Parties shall pay $345,000 to EPA in reimbursement of past response costs incurred by EPA at the Site, as well as all future response costs incurred by EPA in connection with the Site. In exchange, EPA covenants not to sue or take administrative action against Settling Parties pursuant to section 107(a) of CERCLA, for EPA's past response costs or EPA's future response costs as those costs are defined in the proposed settlement agreement.

For 30 days following the date of publication of this document, EPA will receive written comments concerning the proposed cost recovery settlement agreement. Comments to the proposed settlement agreement should reference the Global Landfill Superfund Site, Index No. CERCLA–02–2018–2012. EPA will consider all comments received during the 30-day public comment period and may modify or withdraw its consent to the settlement agreement if comments received disclose facts or considerations that indicate that the proposed settlement agreement is inappropriate, improper, or inadequate. EPA's response to comments will be available for public inspection at EPA's Region 2 offices located at 290 Broadway, New York, NY 10007–1866.

DATES: Comments must be submitted on or before June 11, 2018.

ADDRESSES: The proposed settlement agreement is available for public inspection at EPA's Region 2 offices. To request a copy of the proposed settlement agreement, please contact the EPA employee identified below.

FOR FURTHER INFORMATION CONTACT: Juan M. Fajardo, Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency Region 2, 290 Broadway—17th Floor, New York, NY 10007. Email: *fajardo.juan@epa.gov;* telephone: 212–637–3132.

Dated: April 25, 2018.

John Prince,

Acting Director, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2.

[FR Doc. 2018–10134 Filed 5–10–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change The Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

DATES: The agency must receive comments on or before July 10, 2018.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, 202–418–2054.

SUPPLEMENTARY INFORMATION: The following applicants filed AM or FM proposals to change the community of license: NEW BEGINNINGS MOVEMENT, INC., WJCF–FM, Fac. ID No. 91193, Channel 201B, From MORRISTOWN, IN, To GREENFIELD, IN, BPED–20180327ACM; EDUCATIONAL MEDIA FOUNDATION, KMLV, Fac. ID No. 85846, Channel 201C0, From RALSTON, NE, To MALVERN, IA, BPED–20180312ABQ; EDUCATIONAL MEDIA FOUNDATION, KUAO, Fac. ID No. 71394, Channel 201C2, From OGDEN, UT, To TREMONTON, UT, BPED–20180330AAH; FAMILY LIFE MINISTRIES, INC., WCIH, Fac. ID No. 20641, Channel 212B1, From ELMIRA, NY, To RIDGEBURY, PA, BPED–20180413AAQ; CALVARY CHAPEL OF TWIN FALLS, INC., KBJF, Fac. ID No. 174640, Channel 213C, From NEPHI, UT, To SARATOGA SPRINGS, UT, BPED–20180308AAB; SARKES TARZIAN, INC., WTTS, Fac. ID No. 59141, Channel 222B, From BLOOMINGTON, IN, To TRAFALGAR, IN, BPH–20180320ABU; THE UNIVERSITY OF WYOMING, KTWY, Fac. ID No. 166052, Channel 248C3, From SHOSHONI, WY, To SHERIDAN, WY, BPED–20180413AAZ; THE UNIVERSITY OF WYOMING, KWWY, Fac. ID No. 166053, Channel 267C3, From SHOSHONI, WY, To CASPER, WY, BPED–20180413ABA; BRYAN KING, KAJZ, Fac. ID No. 87996, Channel 293C3, From LLANO, TX, To GRANITE SHOALS, TX, BPH–20180302AAX; EDUCATIONAL MEDIA FOUNDATION, KIMI, Fac. ID No. 189501, Channel 299A, From MALVERN, IA, To RALSTON, NE, BPED–20180312ABP; BLOUNT BROADCASTING CORPORATION, WKVL, Fac. ID No. 66618, 850kHz, From KNOXVILLE, TN, To MARYVILLE, TN, BP–20180208AAL; 920 AM, LLC, WGNU, Fac. ID No. 49042, 920kHz, From GRANITE CITY, IL, To ST. LOUIS, MO, BP–20180226AAO; and ETERNITY MEDIA GROUP, WKXG, Fac. ID No. 65008, 1550kHz, From GREENWOOD, MS, To BOLTON, MS, BP–20180319AAL.

The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW, Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://licensing.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.*

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2018–10035 Filed 5–10–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0006; –0015; –0019; and –0097)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing

information collection, as required by the Paperwork Reduction Act of 1995. On March 1, 2018, the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on these renewals.

DATES: Comments must be submitted on or before June 11, 2018.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.FDIC.gov/regulations/laws/federal.* Follow the instructions for submitting comments on the FDIC website.
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Counsel, MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the applicable OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Counsel, 202–898–3767, *mcabeza@FDIC.gov,* MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC proposes to implement a number of revisions to currently-approved information collections, based on the recommendations of an interagency working group comprised of representatives from the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency, who collaborated to recommend the proposed changes. The proposed changes are being made to: (a) Improve the clarity of the requests; (b) reflect new laws, regulations, capital requirements and accounting rules; (c) delete information requests that have been determined to be unnecessary for the analysis of the filing; and (d) add transparency for filers regarding the information that is required to consider a filing. In determining which changes to propose, the FDIC surveyed its regional offices to solicit recommendations for changes to the forms and considered the effects of the changes on community bank organizations, which represent the majority of filers. The revisions add items to these forms to clarify the information being requested to avoid the need for follow-up requests. Requesting the information up-front should increase transparency for filers as well as improve the efficiency of the submission and review process.

The FDIC is proposing to revise and request a three-year extension of the following currently-approved collections of information:

1. *Title:* Interagency Biographical and Financial Report.

OMB Number: 3064–0006.

Type: Revision of a currently approved collection.

Form: Interagency Biographical and Financial Report.

Form Number: 6200/06.

Affected Public: Individuals or households; business or other for profit; Insured state nonmember banks and state savings associations.

Estimated Number of Annual Respondents: 574.

Estimated Time per Response: 4.5 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 2,583 hours.

General Description of Collection: The Interagency Biographical and Financial Report is submitted to the FDIC by: (1) Each individual director, officer, or individual or group of shareholders acting in concert that will own or control 10 percent or more, of a proposed or operating depository institution applying for FDIC deposit insurance; (2) a person proposing to acquire control of an insured state nonmember bank, state savings association (FDIC-supervised institution) and certain parent companies of such entities; (3) each proposed new director or proposed new chief executive officer of an FDIC-supervised institution which has undergone a change in control within the preceding twelve months; and (4) each proposed new director or senior executive officer of an FDIC-supervised institution that is not in compliance with all minimum capital requirements, is in troubled condition, or otherwise is required to provide such notice. The information collected is used by the FDIC to evaluate the general character and financial condition of individuals who will be involved in the management or control of financial institutions, as required by statute. In order to lessen the burden on applicants, the FDIC cooperates with the other federal banking agencies to the maximum extent possible in processing the various applications.

Proposed Revisions: The proposed changes for the Interagency Biographical and Financial Report include additional requested items relating to information that generally was previously requested as supplemental information subsequent to the filing of the initial application; clarification of exact requirements of certain requests; deletion of certain requested items that the FDIC no longer believes are helpful in evaluating the notice; and other minor changes for improved grammar, comprehension, and accurate citations and mailing addresses. Because a filer may require some additional time to incorporate supplemental documentation, particularly in connection with the requested description of pending legal and related matters, the FDIC estimates that the proposed revisions will result in an additional half an hour of reporting burden for each filer. Accordingly, the estimated time per response is being increased from 4 hours to 4.5 hours. The proposed revised ''Interagency Biographical and Financial Report'' form and a redlined version highlighting the proposed revisions from the currently-approved form may be reviewed by the public at *https://www.FDIC.gov/regulations/laws/federal.*

2. *Title:* Interagency Bank Merger Act Application.

OMB Number: 3064–0015.

Type: Revision of a currently approved collection.

Form: Interagency Bank Merger Act Application.

Form Number: 6220/01.

Affected Public: Individuals or households; business or other for profit.

Estimated Burden:

ESTIMATED BURDEN

	Number of annual respondents	Frequency of response	Hours per response	Total estimated annual hours
Affiliate	134	On Occasion	19	2,546
Nonaffiliate	162	On Occasion	31	5,022
Total	296			7,568

General Description of Collection: The Interagency Bank Merger Act Application form is used by the FDIC, the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency for applications under section 18(c) of the Federal Deposit Insurance Act (FDIA), as amended (12 U.S.C. 1828(c)). The application is used for a merger, consolidation, or other combining transaction between nonaffiliated parties as well as to effect a corporate reorganization between affiliated parties (affiliate transaction). An affiliate transaction refers to a merger transaction or other business combination (including a purchase and assumption) between institutions that are commonly controlled (for example, between a depository institution and an affiliated interim institution). There are different levels of burden for nonaffiliate and affiliate transactions. Applicants proposing affiliate transactions are required to provide less information than applicants involved in the merger of two unaffiliated entities. If depository institutions are not controlled by the same holding company, the merger transaction is considered a nonaffiliate transaction.

Proposed Revisions: The proposed changes to the Interagency Bank Merger Act Application form include additional items relating to information that was previously requested as supplemental information subsequent to the filing of the initial application; clarification of certain requested items related to biographical and financial information for principals and to Community Reinvestment Act-related information; deletion of the request for cash flow projections for the parent company; updated requests to account for statutory considerations related to the effect of a transaction on the stability of the United States financial system; changes to capital requirements and accounting rules; and other minor changes to improve grammar and readability, provide accurate citations to authority, and update mailing addresses. As a result of the revisions described above, applicants may need to provide additional financial information, describe pending litigation and investigations, and summarize the effects of a proposed transaction on financial stability. For this reason, the FDIC estimates that the proposed revisions will result in an additional hour of burden for each applicant. Accordingly, the estimated times per response are being increased from 18 to 19 hours for affiliate transactions and 30 to 31 hours for nonaffiliate transactions. The proposed revised ''Interagency Bank Merger Act Application'' form and a redlined version highlighting the proposed revisions from the currently-approved form may be reviewed by the public at *https://www.FDIC.gov/regulations/laws/federal.*

3. *Title:* Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Type: Revision of a currently approved collection.

Form: Interagency Notice of Change in Control.

Form Number: 6822/01.

Affected Public: Individuals, insured state nonmember banks, and insured state savings associations.

Estimated Number of Annual Respondents: 25.

Estimated Time per Response: 30.5 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 763 hours.

General Description of Collection: Section 7(j) of the FDIA (12 U.S.C. 1817(j)) and sections 303.80–88 of the FDIC Rules and Regulations (12 CFR 303.80 *et seq.*) require that any person proposing to acquire control of an insured depository institution and certain parent companies thereof provide 60 days prior written notice of the proposed acquisition to the appropriate federal banking agency. Such written notice which pertains to the acquisition of control of an FDIC-supervised institution and certain parent companies thereof is filed with the regional director of the FDIC region in which the bank is located. The FDIC reviews the information reported in the Notice to assess, in part, any anticompetitive and monopolistic effects of the proposed acquisition, to determine if the financial condition of any acquiring person or the future prospects of the institution might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution, and to determine whether the competence, experience, or integrity of any acquiring person, or of any of the proposed management personnel, indicates that it would not be in the interest of the depositors of the institution, or in the interest of the public, to permit such persons to control the bank. The FDIC must also make an independent determination of the accuracy and completeness of all of the information required to be filed in conjunction with a Notice.

Proposed Revisions: The proposed changes for the Interagency Notice of Change in Control form include additional requested items relating to information that generally was previously requested as supplemental information subsequent to the filing of the initial application; clarification of exact requirements of certain requests; deletion of certain requested items that the FDIC no longer believes are helpful in evaluating the Notice; and other minor changes for improved grammar, comprehension, and accurate citations and mailing addresses. Because certain applicants may need additional time to complete the requested breakdowns of voting and nonvoting securities, and stock options and warrants that were previously requested by the agencies later in the process, and to include a narrative description of the proposed transaction, the FDIC estimates that the proposed revisions would require an additional half an hour of burden for each respondent. Accordingly, the estimated time per response is being increased from 30 hours to 30.5 hours. The proposed revised ''Interagency Notice of Change in Control'' form and a redlined version highlighting the proposed revisions from the currently-approved form may be reviewed by the public at *https://www.FDIC.gov/regulations/laws/federal.*

4. *Title:* Interagency Notice of Change in Director or Senior Executive Officer.

OMB Number: 3064–0097.

Type: Revision of a currently approved collection.

Form: Interagency Notice of Change in Director or Senior Executive Officer.

Form Number: 6822/02.

Affected Public: Insured state nonmember banks and state savings associations.

Estimated Number of Annual Respondents: 325.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 650 hours.

General Description of Collection: Section 32 of the FDIA (12 U.S.C. 1831i) requires an insured depository institution or depository institution holding company under certain circumstances to notify the appropriate federal banking agency of the proposed addition of any individual to the board of directors or the employment of any individual as a senior executive officer of such institution at least 30 days before such addition or employment becomes effective. Section 32 of the FDIA also provides that the FDIC may disapprove an individual's service as a director or senior executive officer of certain state nonmember banks or state savings associations if, upon assessing the individual's competence, experience, character, and integrity, it is determined that the individual's service would not be in the best interest of the depositors of the institution or the public. The Interagency Notice of Change in Director or Senior Executive Officer, with the information contained in the Interagency Biographical and Financial Report (described above) as an attachment, is used by the FDIC to collect information relevant to assess the individual's competence, experience, character, and integrity.

Proposed Revisions: The proposed changes for the Interagency Notice of Change in Director or Senior Executive Officer form include clarifications of existing information requested and exceptions to the extent they may be relied upon by applicants; deletion of certain formerly requested items that are no longer needed to evaluate the notice; and other minor changes for improved grammar, comprehension, and accurate citations and mailing addresses. The FDIC believes these revisions will not change the estimated time per response. The proposed revised ''Interagency Notice of Change in Director or Senior Executive Officer'' form and a redlined version highlighting the proposed revisions from the currently-approved form may be reviewed by the public at *https://www.FDIC.gov/regulations/laws/federal.*

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on May 8, 2018.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2018–10093 Filed 5–10–18; 8:45 am]

BILLING CODE 6714–01–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 June 11, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Westbury Bancorp, Inc., West Bend, Wisconsin;* to become a bank holding company upon the conversion of its subsidiary Westbury Bank, West Bend, Wisconsin, from a savings bank to a commercial bank.

Board of Governors of the Federal Reserve System, May 8, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–10100 Filed 5–10–18; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0027; Docket No. 2018–0001; Sequence No. 2]

Information Collection; General Services Administration Acquisition Regulation; Contract Administration, Quality Assurance (GSA Forms 1678 and 308)

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding contract administration and quality assurance.

DATES: *Submit comments on or before:* July 10, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Calik, Procurement Analyst, General Services Acquisition Policy Division, at 312–353–6090 or via email to *jennifer.calik@gsa.gov.*

ADDRESSES: Submit comments identified by Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308), by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB Control number 3090–0027. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0027,

Contract Administration and Quality Assurance (GSA Forms 1678 and 308)''. Follow the instructions on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308)'', on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20406. ATTN: Ms. Mandell/IC 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308).

Instructions: Please submit comments only and cite Information Collection 3090–0027, Contract Administration and Quality Assurance (GSA Forms 1678 and 308), in all correspondence related to this collection. Comments received generally will be posted without change to *regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *regulations.gov,* approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

SUPPLEMENTARY INFORMATION:

A. Purpose

Under certain contracts, because of reliance on contractor inspection in lieu of Government inspection, GSA's Federal Acquisition Service requires documentation from its contractors to effectively monitor contractor performance and ensure that it will be able to take timely action should that performance be deficient.

B. Annual Reporting Burden

Response Time (Hours)—GSA Form 1678: 1,875.

Response Time (Hours)—GSA Form 308: 200.

Total Burden Hours: 2,075.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20406, telephone 202–501–4755. Please cite OMB Control No. 3090–0027, Contract Administration, Quality Assurance (GSA Forms 1678 and 308), in all correspondence.

Dated: May 8, 2018.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018–10118 Filed 5–10–18; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0262; Docket No. 2018–0001; Sequence No. 9]

Information Collection; General Services Administration Acquisition Regulation; Identification of Products With Environmental Attributes

AGENCY: Office of Acquisition Policy, General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension of a previously existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding identification of products with environmental attributes.

DATES: *Submit comments on or before:* July 10, 2018.

ADDRESSES: Submit comments identified by Information Collection 3090–0262, Identification of Products with Environmental Attributes, by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by inputting ''Information Collection 3090–0262, Identification of Products with Environmental Attributes'', under the heading ''Enter Keyword or ID'' and selecting ''Search''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0262, Identification of Products with Environmental Attributes''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0262, Identification of Products with Environmental Attributes'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 3090–0262, Identification of Products with Environmental Attributes.

Instructions: Please submit comments only and cite Information Collection 3090–0262, Identification of Products with Environmental Attributes, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Funk, Program Analyst, General Services Acquisition Policy Division, GSA, at telephone 202–357–5805 or via email to *kevin.funk@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) requires contractors holding Multiple Award Schedule Contracts to identify in their GSA price lists those products that they market commercially that have environmental attributes in accordance with GSAR clause 552.238–72. The identification of these products will enable Federal agencies to maximize the use of these products and meet the responsibilities expressed in statutes and executive order.

B. Annual Reporting Burden

Respondents: 795.

Responses per Respondent: 1.

Annual Responses: 795.

Hours per Response: 1.

Total Burden Hours: 795.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0262, Identification of Products with Environmental Attributes, in all correspondence.

Dated: May 8, 2018.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2018–10116 Filed 5–10–18; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2018–02; Docket No. 2018–0002; Sequence No. 6]

Request for Comment: New Federal Real Property Profile Information for Communications Facility Installation: Correction

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Correction.

SUMMARY: GSA published a notice in the **Federal Register** on May 7, 2018 at 83 FR 20078, regarding Request for Comment: New Federal Real Property Profile Information for Communications Facility Installation. GSA is making corrections to the Dates section to clarify the comment due date.

DATES: This notice is effective May 11, 2018.

FOR FURTHER INFORMATION CONTACT: For further information on this document, please contact Chris Coneeney, Realty Specialist, Office of Government-wide Policy, 202–208–2956 or *chris.coneeney@gsa.gov.*

For information pertaining to the status or publication schedules, contact the Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, 202–501–4755. Please cite Notice MA–2018–02: Correction.

SUPPLEMENTARY INFORMATION:

Correction

In the notice FR Doc. 2018–09671 published in the **Federal Register** at 83 FR 20078 on May 7, 2018, make the following correction: On page 20078, in the first column, under the section **DATES**, remove ''This notice is effective July 6, 2018'' and add ''Please submit comments by July 21, 2018'' in its place.

Dated: May 8, 2018.

Alexander J. Kurien,

Deputy Associate Administrator, Office of Asset and Transportation Management, Office of Government-wide Policy.

[FR Doc. 2018–10119 Filed 5–10–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) has a comprehensive web-based Library of Patient-Centered Outcomes Research (PCOR) Resources to help make available the PCOR research, findings, tools, and other resources that have been developed as a result of investments by public, private, nonprofit, and academic organizations. This Library of PCOR Resources includes PCOR findings and evidence-based tools that have appeared in the published literature, as well as studies and projects that are in progress.

The information in this web-based library is intended to assist researchers who may be conducting new studies, as well as clinicians, policymakers, consumers, and others who are seeking access to evidence-based health information. Each resource provided in the library provides a summary and access to information on PCOR studies and related syntheses and translations.

Through this Request for Information (RFI), AHRQ is seeking feedback about the Library of PCOR Resources and the materials that can be accessed there to gauge how well the Library and those materials meet the needs of potential users in the general public.

DATES: Submission deadline on or before June 11, 2018.

ADDRESSES: Electronic responses are preferred and should be sent to: *PCORResrouces@ahrq.hhs.gov.* Non-electronic responses will also be accepted. Please mail responses to: Gail Makulowich, Office of Communications, Agency for Healthcare Research and Quality, 5600 Fishers Lane, 07N104B, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gail Makulowich, Office of Communications, *gail.makulowich@ahrq.hhs.gov,* 301–427–1711.

SUPPLEMENTARY INFORMATION: The mission of the Agency for Healthcare Research and Quality (AHRQ) is to produce evidence to make health care safer, higher quality, more accessible, equitable, and affordable, and to work within the U.S. Department of Health and Human Services and with other public and private partners to make sure that the evidence is understood and used. The Agency strives to meet this mission by investing in research and generating needed evidence that supports disseminating tested practices, creating materials to teach and train health care systems and professionals to catalyze improvements in care, and developing measures and data used to track and improve performance. To learn more about the Agency, visit *AHRQ.gov.*

AHRQ is providing this Library of PCOR Resources in response to the 2010 Patient Protection and Affordable Care Act, Title VI, Section 937. This Act mandates that AHRQ, in consultation with the National Institutes of Health (NIH), disseminate findings published by the Patient-Centered Outcomes Research Institute (PCORI) and other Government-funded entities that sponsor research on comparative clinical effectiveness. AHRQ will disseminate these findings to physicians, health care providers, patients, vendors of health information technology focused on decision support, appropriate professional associations, and Federal and private health plans.

The Patient Protection and Affordable Care Act directs AHRQ to ''develop a publicly available resource database.'' However, to ensure that AHRQ is providing the most up-to-date information and making the best use of resources, AHRQ is providing direct links to relevant PCOR resources.

Submission Instructions

Specific questions of interest to AHRQ include, but are not limited to:

- What was your first impression of the Library of PCOR Resources?
- What do you like the most?
- What do you like the least?
- How can AHRQ improve these pages?
- Is there anything missing on these pages?
- Overall, how easy is it to find what you need on these pages?
- Are the materials available through the Library of PCOR Resources useful?

AHRQ will use the information it receives to assess the layout, design, and content of the Library of Resources and will revise the pages, as needed, based on the feedback provided by the general public.

Francis D. Chesley, Jr.,

Acting Deputy Director.

[FR Doc. 2018–10090 Filed 5–10–18; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0891; Docket No. CDC–2018–0045]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled World Trade Center Health Program Enrollment, Treatment, Appeals & Reimbursement.

DATES: CDC must receive written comments on or before July 10, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0045 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all Federal comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.
5. Assess information collection costs.

Proposed Project

World Trade Center Health Program Enrollment, Treatment, Appeals & Reimbursement (OMB Control No. 0920–0891, Expires 09/30/2018)—Revision—National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NIOSH seeks to request OMB approval to revise the currently approved information collection activities that support the World Trade Center (WTC) Health Program. The James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113) created the WTC Health Program to provide medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

This request also seeks to incorporate the World Trade Center Health Program Petition for the addition of a New WTC-Related Health Condition for Coverage under the WTC Health Program package (0920–0929) into the existing approval, World Trade Center Health Program Enrollment, Appeals, Reimbursement, & Petitions (OMB Control No. 0920–0891). Upon approval, OMB Control number 0920–0929 will be discontinued.

Since its inception in 2011, the WTC Health Program has been approved to collect information from applicants and Program members (enrolled WTC responders and survivors) concerning eligibility and enrollment, appointment of a designated representative, medical care, travel reimbursement, and appeal of adverse Program decisions. The WTC Health Program is also currently approved to collect information from Program medical providers, including health condition certification requests and pharmaceutical claims. Currently approved total estimated burden is 13,594 hours annually (see OMB Control No. 0920–0891, exp. September 30, 2018).

The WTC Health Program has determined that some existing forms need to be updated, and new information collections related to a recent rulemaking should be added. Changes to WTC Health Program regulations in 42 CFR part 88 will require the extension of existing information collections. Specifically, 42 CFR 88.13 establishes procedures for the appeal of Program decisions to disenroll Program members and deny enrollment to applicants. Appeals of enrollment denial decisions, which include the submission of appeal request letters, are currently approved; the Program proposes to extend this information collection to account for the burden of requests for appeal of disenrollment decisions. Of the over 70,000 Program members, we expect that 0.014 percent (10) will be subsequently disenrolled from the Program. Of those, we expect that 30 percent (three) will appeal the disenrollment decisions. We estimate that the disenrollment appeal requests will take no more than 0.5 hours per respondent. The annual burden estimate is 1.5 hours.

Section 42 CFR 88.21 establishes procedures for the appeal of WTC

Health Program decisions to decertify a WTC-related health condition, deny certification, and deny treatment authorization. Appeals of health condition certification denials and treatment authorization denials, which include the submission of appeal request letters, are currently approved; the Program proposes to extend this information collection to account for the burden of requests for appeal of decertification decisions. The information collection would also be expanded to allow Program members to provide additional information and/or an oral statement. Of the estimated 51,472 Program members who have at least one health condition certification, we estimate that 0.02 percent (10) will be decertified, and 50 percent (five) of those will appeal a decertification. We estimate that the appeal request letter will take no more than 0.5 hours per respondent. Providing additional information and/or an oral statement will take no more than 1 hour per respondent. The annual burden estimate for decertification appeals is 7.5 hours.

We estimate that Program members request certification for 20,000 health conditions each year. Of those 20,000, we estimate that 1 percent (200) of certification requests are denied by the WTC Health Program. We further expect that 30 percent of denied certifications, or 60 individuals, will be appealed. We estimate that the appeals letter takes no more than 30 minutes and providing additional information and/or an oral statement will take no more than one hour. The burden estimate for certification denial appeals is 90 hours.

Of the projected 51,472 Program members who receive medical care, we estimate that 0.05 percent (26) will appeal a determination by the WTC Health Program that the treatment being sought is not medically necessary. We estimate that the appeals letter will take no more than 30 minutes and providing additional information and/or an oral statement will take no more than one hour. The burden estimate for treatment authorization denial appeals is 39 hours.

Finally, 42 CFR 88.23 establishes procedures for the appeal of a WTC Health Program decision to deny reimbursement to a Program medical provider for treatment determined not to be medically necessary. Accordingly, the Program proposes the addition of information collected in the appeal request. We estimate that of the nearly 52,000 Program providers, we estimate that 1.15 percent (600) annually will be denied reimbursement for treatment found to be not medically necessary or in accordance with treatment protocols, and will appeal the decision. We estimate that the appeal letter will take no more than 0.5 hours to compile. The burden estimate for treatment reimbursement denial appeals is 300 hours.

The Program also finds it necessary to add a new form to allow applicants and Program members to grant permission to share information with a third person about an individual's application or case. We estimate that 30 applicants and members will submit a Health Insurance Portability and Accountability Act (HIPAA) Release Form annually. The form will to take no longer than 0.25 hours to complete. The burden estimate for the HIPAA Release form is 7.5 hours.

In addition to describing those burden estimates revised by this action, the estimated annualized burden hours for those collection instruments not subject to revision in this action are included in the table below.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
FDNY Responder	World Trade Center Health Program FDNY Responder Eligibility Application.	45	1	30/60	23
General Responder	World Trade Center Health Program Responder Eligibility Application (Other than FDNY).	2,475	1	30/60	1,238
Pentagon/Shanksville Responder	World Trade Center Health Program Pentagon/Shanksville Responder.	630	1	30/60	315
WTC Survivor	World Trade Center Health Program Survivor Eligibility Application (all languages).	1,350	1	30/60	675
General responder	Postcard for new general responders in NY/NJ to select a clinic.	2,475	1	15/60	619
Program Medical Provider	Physician Request for Certification	20,000	1	30/60	10,000
Responder (FDNY and General Responder)/Survivor.	Denial Letter and Appeal Notification—Enrollment.	45	1	30/60	23
Responder (FDNY and General Responder)/Survivor.	Disenrollment Letter and Appeal Notification.	3	1	30/60	1.5
Responder (FDNY and General Responder)/Survivor.	Denial Letter and Appeal Notification—Health Condition Certification.	60	1	90/60	90
Responder (FDNY and General Responder)/Survivor.	Decertification Letter and Appeal Notification.	5	1	90/60	7.5
Responder (FDNY and General Responder)/Survivor.	Denial Letter and Appeal Notification—Treatment Authorization.	26	1	90/60	39
Responder (FDNY and General Responder)/Survivor.	WTC Health Program Medical Travel Refund Request.	10	1	10/60	2
Designated Rep Form	Form to designate a representative	30	1	15/60	7.5
HIPAA Release	Form to share member information	30	1	15/60	7.5
Pharmacy	Outpatient prescription pharmaceuticals.	150	261	1/60	653
Program Medical Provider	Reimbursement Denial Letter and Appeal Notification.	600	1	30/60	300

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Responder/Survivor/Advocate (physician).	Petition for the addition of health conditions.	60	1	60/60	60
Total					14,061

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–10067 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0950; Docket No. CDC–2018–0040]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Health and Nutrition Examination Survey (NHANES). NHANES programs produce descriptive statistics, which measure the health and nutrition status of the general population.

DATES: CDC must receive written comments on or before July 10, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0040 by any of the following methods:

- *Federal eRulemaking Portal: Regulation.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: *Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.
5. Assess information collection costs.

Proposed Project

The National Health and Nutrition Examination Survey (NHANES), (OMB Control Number 0920–0950, Expiration Date 12/31/2019)—Revision — National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability; environmental, social and other health hazards; and determinants of health of the population of the United States. The National Health and Nutrition Examination Surveys (NHANES) have been conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC.

NHANES programs produce descriptive statistics, which measure the health and nutrition status of the general population. With physical examinations, laboratory tests, and interviews, NHANES studies the relationship between diet, nutrition and health in a representative sample of the United States.

NHANES monitors the prevalence of chronic conditions and risk factors. NHANES data are used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in

the health of the U.S. population over time.

In 2019, a new sampling strategy is being implemented. To increase operational efficiency, NHANES will survey a nationally representative sample over the course of a two-year cycle instead of annually. The change to a two-year cycle will permit more days allocated to each primary sampling unit (PSU), which will result in more time to screen and recruit potential participants, and allow for more exam slots. As in previous years, the base sample will remain at approximately 5,000 interviewed and examined individuals annually.

NCHS collects personal identification information. Participant level data items will include basic demographic information, name, address, social security number, Medicare number and participant health information to allow for linkages to other data sources such as the National Death Index and data from the Centers for Medicare and Medicaid Services (CMS).

A variety of agencies sponsor data collection components on NHANES. To keep burden down, NCHS cycles in and out various components. The 2019–20 NHANES physical examination includes the following components: Anthropometry (all ages), 24-hour dietary recall (all ages), physician's examination (all ages, blood pressure is collected here), oral health examination (ages 1 and older), and hearing (ages 6–19 and 70+). Starting in 2019, we will collect blood pressure using an automated device, instead of using manual devises.

While at the examination center additional interview questions are asked (6 and older), a second 24-hour dietary recall (all ages) is scheduled to be conducted by phone 3–10 days later. In 2019, we plan to add a Words-In-Noise (ages 70+) exam, genetic testing related to the liver elastography exam, and a balance exam (ages 40+).

The 2019–20 survey will bring back the cognitive function test (ages 60+). NHANES also plans to conduct a 24-hour blood pressure measurement pilot among NHANES participants ages 18 and older.

The bio specimens collected for laboratory tests include urine, blood, and vaginal and penile swabs. Serum, plasma and urine specimens are stored for future testing, including genetic research, if the participant consents. Consent to store DNA is continuing in NHANES. Oral rinse samples for HPV analyses is cycling back into the survey (ages 8–69 years).

The following analytes are being discontinued in 2018 for participants from the smoking sample subset: Aromatic Amines, Heterocyclic Amines, Urine Cotinine, Tobacco-Specific Nitrosamines, Perchlorate, Nitrates, and Thiocyanate, Urinary Arsenic, Mercury, Iodine and Metals.

Cycling out of NHANES 2019–20 are the blood pressure methodology project, Human Papillomavirus (HPV) in serum, Aldehydes in serum, Volatile N-nitrosamines (VNAs) tobacco biomarkers, Urine heterocyclic amines, urine aromatic amines and urine tobacco-specific nitrosamines

New additions to the survey questionnaires include two questions on WIC participation, a birth to less than 24-month questionnaire module and collecting information on infant formula ingredients. We are also considering modifications to multiple existing questionnaire sections in order to better align with questions asked in the National Health Interview Survey (NHIS) (OMB Control No. 0920–0214, Exp. 12/31/2019) or to streamline the instruments to reduce respondent burden.

Most sections of the NHANES interviews provide self-reported information to be used either in concert with specific examination or laboratory content, as independent prevalence estimates, or as covariates in statistical analysis (*e.g.,* socio-demographic characteristics). Some examples include alcohol, drug, and tobacco use, sexual behavior, prescription and aspirin use, and indicators of oral, bone, reproductive, and mental health. Several interview components support the nutrition-monitoring objective of NHANES, including questions about food security and nutrition program participation, dietary supplement use, and weight history/self-image/related behavior.

In 2019–2020, we plan to continue or expand upon existing multi-mode screening and electronic consent procedures in NHANES. Our yearly goal for interview, exam and post exam components is 5,000 participants. To achieve this goal we may need to screen up to 15,000 individuals.

Burden for individuals will vary based on their level of participation. For example, infants and children tend to have shorter interviews and exams than adults. This occurs because young people may have fewer health conditions or medications to report so their interviews take less time or because certain exams are only conducted on individuals 18 and older, etc. In addition, adults often serve as proxy respondents for young people in their families.

Participation in NHANES is voluntary and confidential. There is no cost to respondents other than their time. The total estimated annual burden hours are 72,917. We are requesting a three-year approval.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Individuals in households	Screener	15,000	1	3/60	750
Individuals in households	Household Interview	5,000	1	1.5	7,500
Individuals in households	MEC Exam	5,000	1	4	20,000
Individuals in households	Dietary Interview Phone Follow-Up	5,000	1	30/60	2,500
Individuals in households	Flexible Consumer Behavior Survey Phone Follow-Up.	5,000	1	20/60	1,667
Individuals in households	Developmental Projects & Special Studies.	3,500	1	3	10,500
Individuals in households	24 hour Blood Pressure Pilot	1,200	1	25	30,000
Total					72,917

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–10066 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–0314]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled National Survey of Family Growth (NSFG) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 26, 2017 to obtain comments from the public and affected agencies. CDC received four comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

The National Survey of Family Growth (NSFG)(OMB Control Number 0920–0314, Expiration Date 05/31/2018)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on ''family formation, growth, and dissolution,'' as well as ''determinants of health'' and ''utilization of health care'' in the United States. This clearance request includes the data collection in 2018 forward for the continuous NSFG.

The National Survey of Family Growth (NSFG) was conducted periodically between 1973 and 2002, continuously in 2006–2010, and continuously starting in September 2011, by the National Center for Health Statistics, CDC. Each year, about 15,000 households are screened, with about 5,000 participants interviewed annually. Participation in the NSFG is completely voluntary and confidential. Interviews average 60 minutes for males and 80 minutes for females. The response rate since 2011 has ranged from 69 percent to 77 percent, and the cumulative response rate for the entire fieldwork period so far (September 2011 through the most current quarter which ended in May 2017) is 69 percent.

The NSFG program produces descriptive statistics which document factors associated with birth and pregnancy rates, including contraception, infertility, marriage, divorce, and sexual activity, in the US household population 15–49 years (15–44 years in survey periods before 2015); and behaviors that affect the risk of sexually transmitted diseases (STD), including HIV, and the medical care associated with contraception, infertility, and pregnancy and childbirth.

NSFG data users include the DHHS programs that fund it, including CDC/NCHS and eleven others (The Eunice Kennedy Shriver National Institute for Child Health and Human Development (NIH/NICHD); the Office of Population Affairs (DHHS/OPA); the Children's Bureau (DHHS/ACF/CB); the ACF's Office of Planning, Research, and Evaluation; the CDC's Division of HIV/AIDS Prevention (CDC/DHAP); the CDC's Division of STD Prevention (CDC/DSTD); the CDC's Division of Adolescent and School Health (CDC/DASH); the CDC's Division of Reproductive Health (CDC/DRH); the CDC's Division of Cancer Prevention and Control (CDC/DCPC); the CDC's Division of Nutrition, Physical Activity, and Obesity (CDC/DNPAO); and the CDC's Division of Birth Defects and Developmental Disabilities (CDC/DBDDD)). The NSFG is also used by state and local governments (primarily for benchmarking to national data); private research and action organizations focused on men's and women's health, child well-being, and marriage and the family; academic researchers in the social and public health sciences; journalists, and many others.

This submission requests approval to continue NSFG fieldwork for three years. While no questionnaire revisions are requested, two methodological studies are proposed. The total estimated annualized time burden to respondents is 6,759 hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Household member	Screener Interview	15,000	1	3/60
Household Female 15–49 years of age	Female Interview	2,750	1	80/60

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Household Male 15–49 years of age	Male Interview	2,250	1	1
Household member	Screener Verification	1,500	1	2/60
Household Individual 15–49 years of age	Main Verification	500	1	5/60

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–10065 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH). This meeting is open to the public, but without a public comment period. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the teleconference at the USA toll-free, dial-in number at 1–866–659–0537; the pass code is 9933701. The conference line has 150 ports for callers.

DATES: The meeting will be held on June 26, 2018, 11:00 a.m. to 1:00 p.m. EDT.

ADDRESSES: Audio Conference Call via FTS Conferencing. The USA toll-free dial-in number is 1–866–659–0537; the pass code is 9933701.

FOR FURTHER INFORMATION CONTACT: Theodore Katz, MPA, Designated Federal Officer, NIOSH, CDC, 1600 Clifton Road, Mailstop E–20, Atlanta, Georgia 30333, Telephone (513) 533–6800, Toll Free 1 (800) CDC–INFO, Email *ocas@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, rechartered under Executive Order 13811 on February 12, 2018, and will terminate on September 30, 2019.

Purpose: This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters to be Considered: The agenda will include discussions on: Work Group and Subcommittee Reports; Update on the Status of SEC Petitions; Plans for the August 2018 Advisory Board Meeting; and Advisory Board Correspondence. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–10110 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–18–18KG]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Information Collection for ''The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on January 31, 2018 to obtain comments from the public and affected agencies. CDC received nine comments

related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) 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;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov.* Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Information Collection for ''The EDN Tuberculosis Follow-Up Worksheet for Newly-Arrived Persons with Overseas Tuberculosis Classifications''—Existing Collection in Use without an OMB Control Number—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Global Migration and Quarantine (DGMQ) collaborated closely with several partners, including the U.S. tuberculosis coordinators in U.S. health departments, National Tuberculosis Controllers Association (NTCA), EDN System workgroup, and the CDC Division of Tuberculosis Elimination (DTBE) to develop the proposed worksheet to capture follow-up medical examination information after a person with tuberculosis classification has arrived in the U.S. The overseas medical examination determines whether the applicant has an inadmissible condition of public health significance (a Class A condition) or has a health-related condition that is admissible but that might require extensive medical treatment or follow-up (a Class B condition), such as treated tuberculosis. Applicants with Class A (inadmissible) conditions can only enter the United States if they are granted a waiver. Applicants who have Class A conditions include those who (1) have a communicable disease of public health significance, (2) do not have documentation of having received vaccinations against vaccine-preventable diseases, (3) have a physical or mental disorder with associated harmful behavior, or (4) abuse or are addicted to drugs (42 U.S.C. 252, 8 U.S.C. 1182, and 8 U.S.C. 1222 provide for the physical and mental examination of applicants in accordance with regulations prescribed by the HHS Secretary.)[1] CDC highly recommends that persons with overseas class A or B tuberculosis receive domestic follow-up medical examination information to prevent new transmission of tuberculosis. This is the primary rationale for collecting domestic tuberculosis follow-up information.

The U.S. foreign-born population continuously had the highest incidence of tuberculosis compared to the U.S. non-foreign born population. CDC strongly recommends U.S.-bound immigrants and refugees with class A or B tuberculosis to receive follow-up examinations for tuberculosis in the U.S. The purpose of this data collection is to methodically gather tuberculosis follow-up outcome data to monitor and track U.S.-bound persons with overseas class A and B tuberculosis to assist in the national effort to prevent new transmission of tuberculosis. To accurately determine recent U.S. arrivals receiving domestic follow-up medical examination information, U.S. health departments will provide domestic follow-up outcome information to CDC. Without this data, DGMQ will not have a method of tracking and monitoring newly-arrived persons with overseas class A or B tuberculosis. DGMQ will use information reported on the Tuberculosis Follow-Up Worksheet to ensure that tuberculosis programs are effectively tracking newly-arrived persons and coordinating follow-up medical examination information with local clinicians.

Several indicators will be calculated to measure domestic tuberculosis program performance, including the percentage of aliens with class B tuberculosis with complete US medical examinations. This program performance monitoring activity will be ongoing throughout the year. State and local health departments will voluntarily report evaluation outcome findings on a continuous basis once evaluation results for an individual becomes available.

Data collected by DGMQ will be used to help evaluate the efficacy and efficiency of overseas tuberculosis diagnosis, treatment, and prevention activities along with panel physician performance. Currently, DGMQ does not have an effective method of determining the accuracy of chest x-rays read overseas and the aptness of overseas treatment for tuberculosis. This data will provide DGMQ with a method of evaluating panel physician performance and overseas treatment and prevention activities. The proposed Worksheet contains sections that allow U.S. physicians to review overseas chest x-rays and treatment and indicate any concerns or errors. A negative consequence of not collecting this information is that DGMQ will not be able to quickly analyze data to determine which panel physicians have the most inaccuracies. Plans for formal evaluations of US panel physicians are contingent upon the approval of the Tuberculosis Follow-Up Worksheet.

If technical instructions for tuberculosis diagnosis and treatment are followed properly overseas, persons with overseas classification B tuberculosis should not have tuberculosis disease during their US follow-up examinations. The form will help DGMQ understand what factors may contribute to a domestic diagnosis of tuberculosis. The Worksheet contains a section that collects patient diagnoses and treatment recommendations. Without this information, DGMQ staff will not be able to accurately identify and resolve factors that contribute to tuberculosis disease. This form of monitoring is ongoing and will occur with every instance an alien is diagnosed with tuberculosis disease during follow-up examinations.

There are no costs to the respondents other than their time. The total estimated annual burden is 13,200 hours.

1

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
EDN data entry staff at state and local health departments.	The EDN Tuberculosis Follow-up Worksheet for Newly-Arrived Persons With Overseas Tuberculosis Classifications.	550	48	30/60

Jeffrey Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–10064 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–18–0666; Docket No. CDC–2018–0042]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Healthcare Safety Network (NHSN). NHSN is a public health surveillance system that collects, analyzes, reports, and makes available data for monitoring, measuring, and responding to healthcare associated infections (HAIs), antimicrobial use and resistance, blood transfusion safety events, and the extent to which healthcare facilities adhere to infection prevention practices and antimicrobial stewardship.

DATES: CDC must receive written comments on or before July 10, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2018–0042 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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.
5. Assess information collection costs.

Proposed Project

National Healthcare Safety Network (NHSN)—Revision—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

NHSN is a public health surveillance system that collects, analyzes, reports, and makes available data for monitoring, measuring, and responding to healthcare associated infections (HAIs), antimicrobial use and resistance, blood transfusion safety events, and the extent to which healthcare facilities adhere to infection prevention practices and antimicrobial stewardship. The data collected will be used to inform and detect changes in the epidemiology of adverse events resulting from new and current medical therapies and changing risks. NHSN is comprised of six components: Patient Safety, Healthcare Personnel Safety, Biovigilance, Long-Term Care Facility, Outpatient Procedure, and Dialysis.

Changes were made to 33 data collection facility surveys with this new ICR. CDC revised three annual facility surveys for the Patient Safety component for Hospitals, Long-Term Acute Care Facilities, and Inpatient Rehabilitation Facilities. CDC's revisions clarify the reporting requirements for the data collected on fungal testing, facility locations, and laboratory testing locations. Additionally, corresponding response

options for these questions have been revised to include updated testing methods used by facilities to capture current HAI specific data specification requirements for NHSN. New required questions have been added to all Patient Safety component surveys. The new questions are designed to provide data on surveillance processes, policies, and standards that are used by reporting facilities to ensure that when an event is detected, the facility has the appropriate mechanism to conduct complete reporting. The Hospital Annual Survey added new required questions to provide data about neonatal antimicrobial stewardship practices because the focus of stewardship efforts in neonatology differ from the focus in adult and pediatric practice. Questions were removed and replaced on all three Patient Safety surveys to align better with the Core Elements of Hospital Antibiotic Stewardship Programs specified by CDC. The Core Elements defined by CDC are part of broad-based efforts by CDC and its healthcare and public health partners to combat the threat of antibiotic-resistant bacteria. The new Antibiotic Stewardship Program questions will provide additional data about operational features of the programs that hospitals have implemented, which in turn will enable CDC and its healthcare and public health partners to target their efforts to help invigorate and extend antibiotic stewardship.

CDC is introducing a new optional survey form that is designed to be completed by state and local health departments that participate in HAI surveillance and prevention activities. This new form will provide data on legal and regulatory requirements that are pertinent to HAI reporting. CDC plans to include data the health department survey in its annual National and State Healthcare-Associated Infection Progress Report. The report helps identify the progress in HAI surveillance and prevention at the state and national levels. Data about the extent to which state health departments have validated HAI data that healthcare facilities in their jurisdiction report to NHSN and the extent of state and local health department HAI reporting requirements are important data for users of CDC's HAI Progress Report to consider when they are reviewing and interpreting data in the report.

NHSN now includes a ventilator-associated event available for NICU locations, which requires additional denominator reporting, in which CDC has provided an option to accommodate facilities that are reporting requested data by updating the corresponding surveys. The Pediatric Ventilator-Associated Event (PedVAE) was removed from the survey because a single algorithm is used to detect PedVAE events.

NHSN has made updates to the Antimicrobial Use and Resistance (AUR) data collection tools for the purposes of monitoring additional microorganisms and their antimicrobial susceptibility profiles. Use of these updates in AUR surveillance will provide important additional data for clinical and public health responses to mounting antibiotic resistance problems.

The Long-term Care Facility Component (LTCF) will be updating three forms, two of which will include an update for facilities to document the ''CDI treatment start'' variable. Early CDI reporting data from nursing homes has shown exceptionally low event rates for many reporting facilities (*e.g.,* zero events for six or more months). Since current CDI event detection is based on presence of a positive laboratory specimen, variability in the use of diagnostic testing as part of CDI management will have direct impact on the estimate of CDI burden in a facility (*e.g.,* empiric treatment for CDI without confirmatory testing may result in the appearance of low disease burden). In order to determine whether low CDI event rates might be due to empiric CDI treatment practices, a new process measure will be incorporated into the monthly summary data on CDI for LTCFs. This measure, called ''CDI treatment starts,'' will allow providers to capture the number of residents started on antibiotic treatment for CDI that month based on clinical decisions (*i.e.,* even those without a positive CDI test). This process measure should provide data on clinically-treated CDI in order to inform our understanding of CDI management practices and serve as a proxy for CDI burden in nursing homes.

Overall, minor revisions have been made to a total of 33 forms within the package to clarify and/or update surveillance definitions, increase or decrease the number of reporting facilities, and add new forms.

The previously approved NHSN package included 72 individual collection forms; the current revision request includes a total of 73 forms. The reporting burden will decrease by 109,745 hours, for a total of 5,393,725 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Healthcare facility	57.100 NHSN Registration Form	2,000	1	5/60	167
	57.101 Facility Contact Information	2,000	1	10/60	333
	57.103 Patient Safety Component—Annual Hospital Survey.	6,000	1	1.17	7,500
	57.105 Group Contact Information	1,000	1	5/60	83
	57.106 Patient Safety Monthly Reporting Plan	6,000	12	15/60	18,000
	57.108 Primary Bloodstream Infection (BSI)	6,000	44	33/60	145,200
	57.111 Pneumonia (PNEU)	1,800	72	30/60	64,800
	57.112 Ventilator-Associated Event	6,000	144	28/60	403,200
	57.113 Pediatric Ventilator-Associated Event (PedVAE).	100	120	30/60	6,000
	57.114 Urinary Tract Infection (UTI)	6,000	40	20/60	80,000
	57.115 Custom Event	600	91	35/60	31,850
	57.116 Denominators for Neonatal Intensive Care Unit (NICU).	6,000	12	4	288,000
	57.117 Denominators for Specialty Care Area (SCA)/Oncology (ONC).	2,000	9	5.03	90,600

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	57.118 Denominators for Intensive Care Unit (ICU)/Other locations (not NICU or SCA).	6,000	60	5.03	1,812,000
	57.120 Surgical Site Infection (SSI)	6,000	36	35/60	126,000
	57.121 Denominator for Procedure	6,000	540	10/60	540,000
	57.122 HAI Progress Report State Health Department Survey.	55	1	45/60	41
	57.123 Antimicrobial Use and Resistance (AUR)-Microbiology Data Electronic Upload Specification Tables.	1,000	12	5/60	1,000
	57.124 Antimicrobial Use and Resistance (AUR)-Pharmacy Data Electronic Upload Specification Tables.	2,000	12	5/60	2,000
	57.125 Central Line Insertion Practices Adherence Monitoring.	100	100	25/60	4,167
	57.126 MDRO or CDI Infection Form	6,000	72	30/60	216,000
	57.127 MDRO and CDI Prevention Process and Outcome Measures Monthly Monitoring.	6,000	24	15/60	36,000
	57.128 Laboratory-identified MDRO or CDI Event.	6,000	240	20/60	480,000
	57.129 Adult Sepsis	50	250	25/60	5,208
	57.137 Long-Term Care Facility Component—Annual.	2,600	1	2	5,200
	Facility Survey:				
	57.138 Laboratory-identified MDRO or CDI Event for LTCF.	2,600	12	20/60	10,400
	57.139 MDRO and CDI Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	20/60	10,400
	57.140 Urinary Tract Infection (UTI) for LTCF.	2,600	14	35/60	18,200
	57.141 Monthly Reporting Plan for LTCF	2,600	12	5/60	2,600
	57.142 Denominators for LTCF Locations	2,600	12	4.17	130,000
	57.143 Prevention Process Measures Monthly Monitoring for LTCF.	2,600	12	5/60	2,600
	57.150 LTAC Annual Survey	400	1	1.17	467
	57.151 Rehab Annual Survey	1,000	1	1.17	1,167
	57.200 Healthcare Personnel Safety Component Annual Facility Survey.	50	1	8	400
	57.203 Healthcare Personnel Safety Monthly Reporting Plan.	19,500	1	5/60	1,625
	57.204 Healthcare Worker Demographic Data.	50	200	20/60	3,333
	57.205 Exposure to Blood/Body Fluids	50	50	1	2,500
	57.206 Healthcare Worker Prophylaxis/Treatment.	50	30	15/60	375
	57.207 Follow-Up Laboratory Testing	50	50	15/60	625
	57.210 Healthcare Worker Prophylaxis/Treatment-Influenza.	50	50	10/60	417
	57.300 Hemovigilance Module Annual Survey.	500	1	1.42	708
	57.301 Hemovigilance Module Monthly Reporting Plan.	500	12	1/60	100
	57.303 Hemovigilance Module Monthly Reporting Denominators.	500	12	1.17	7,000
	57.305 Hemovigilance Incident	500	10	10/60	833
	57.306 Hemovigilance Module Annual Survey—Non-acute care facility.	200	1	35/60	117
	57.307 Hemovigilance Adverse Reaction—Acute Hemolytic Transfusion Reaction.	500	4	20/60	667
	57.308 Hemovigilance Adverse Reaction—Allergic Transfusion Reaction.	500	4	20/60	667
	57.309 Hemovigilance Adverse Reaction—Delayed Hemolytic Transfusion Reaction.	500	1	20/60	167
	57.310 Hemovigilance Adverse Reaction—Delayed Serologic Transfusion Reaction.	500	2	20/60	333

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
	57.311 Hemovigilance Adverse Reaction—Febrile Non-hemolytic Transfusion Reaction.	500	4	20/60	667
	57.312 Hemovigilance Adverse Reaction—Hypotensive Transfusion Reaction.	500	1	20/60	167
	57.313 Hemovigilance Adverse Reaction—Infection.	500	1	20/60	167
	57.314 Hemovigilance Adverse Reaction—Post Transfusion Purpura.	500	1	20/60	167
	57.315 Hemovigilance Adverse Reaction—Transfusion Associated Dyspnea.	500	1	20/60	167
	57.316 Hemovigilance Adverse Reaction—Transfusion Associated Graft vs. Host Disease.	500	1	20/60	167
	57.317 Hemovigilance Adverse Reaction—Transfusion Related Acute Lung Injury.	500	1	20/60	167
	57.318 Hemovigilance Adverse Reaction—Transfusion Associated Circulatory Overload.	500	2	20/60	333
	57.319 Hemovigilance Adverse Reaction—Unknown Transfusion Reaction.	500	1	20/60	167
	57.320 Hemovigilance Adverse Reaction—Other Transfusion Reaction.	500	1	20/60	167
	57.400 Outpatient Procedure Component—Annual Facility Survey.	5,000	1	10/60	417
	57.401 Outpatient Procedure Component—Monthly Reporting Plan.	5,000	12	20/60	15,000
	57.402 Outpatient Procedure Component Same Day Outcome Measures.	1,200	25	40/60	20,000
	57.403 Outpatient Procedure Component—Monthly Denominators for Same Day Outcome Measures.	1,200	12	40/60	9,600
	57.404 Outpatient Procedure Component—SSI Denominator.	5,000	540	10/60	450,000
	57.405 Outpatient Procedure Component—Surgical Site (SSI) Event.	5,000	36	35/60	105,000
	57.500 Outpatient Dialysis Center Practices Survey.	7,000	1	2.12	14,817
	57.501 Dialysis Monthly Reporting Plan ...	7,000	12	5/60	7,000
	57.502 Dialysis Event	7,000	60	25/60	175,000
	57.503 Denominator for Outpatient Dialysis.	7,000	12	10/60	14,000
	57.504 Prevention Process Measures Monthly Monitoring for Dialysis.	2,000	12	1.42	17,000
	57.505 Dialysis Patient Influenza Vaccination.	325	75	10/60	4,063
	57.506 Dialysis Patient Influenza Vaccination Denominator.	325	5	10/60	271
	57.507 Home Dialysis Center Practices Survey.	350	1	30/60	175
Total	.....	.....	.....	.....	5,393,725

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2018–10094 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT); Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT); the meeting will be held on May 9, 2018, 8:30 a.m. to 5:00 p.m., EDT and May 10, 2018, 8:30 a.m. to 12:00 p.m., EDT. CDC Corporate Square, Building 8, Conference Room 1–ABC, 8 Corporate Boulevard, Atlanta, Georgia 30329 which was published in the **Federal Register** on April 2, 2018, Volume 83, Number 63, pages 13986–13987.

The meeting is being amended to add Adobe Connect meeting information *https://adobeconnect.cdc.gov/chac/,* phone number: 1 (877) 603–4228, participant passcode: 42598858.

The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Margie Scott-Cseh, Committee Management Specialist, CDC, 1600 Clifton Road, NE, Mailstop: E–07, Atlanta, Georgia 30333, telephone (404) 639–8317; *zkr7@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2018–10111 Filed 5–10–18; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–3361–N]

Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—July 25, 2018

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MEDCAC) (''Committee'') will be held on Wednesday, July 25, 2018. This meeting will specifically focus on obtaining the MEDCAC's appraisal and recommendations regarding the state of evidence for procedural volume requirements, especially pertaining to surgical aortic valve replacements (SAVRs), transcatheter aortic valve replacements (TAVRs) and percutaneous coronary interventions (PCIs), for hospitals to begin and maintain TAVR programs. This meeting is open to the public in accordance with the Federal Advisory Committee Act.

DATES:

Meeting Date: The public meeting will be held on Wednesday, July 25, 2018 from 7:30 a.m. until 4:30 p.m., Eastern Daylight Time (EDT).

Deadline for Submission of Written Comments: Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5:00 p.m., EDT, Monday, June 18, 2018. Once submitted, all comments are final.

Deadlines for Speaker Registration and Presentation Materials: The deadline to register to be a speaker and to submit PowerPoint presentation materials and writings that will be used in support of an oral presentation is 5:00 p.m., EDT on Monday, June 18, 2018. Speakers may register by phone or via email by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the address specified in the **ADDRESSES** section of this notice.

Deadline for All Other Attendees Registration: Individuals may register online at *http://www.cms.gov/apps/events/upcomingevents.asp?strOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5:00 p.m. EDT, Wednesday, July 18, 2018.

We will be broadcasting the meeting live via Webcast at *http://www.cms.gov/live/.*

Deadline for Submitting a Request for Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to contact the Executive Secretary as specified in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than 5:00 p.m., EDT Friday, July 6, 2018.

ADDRESSES:

Meeting Location: The meeting will be held in the main auditorium of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244.

Submission of Presentations and Comments: Presentation materials and written comments that will be presented at the meeting must be submitted via email to *MedCACpresentations@cms.hhs.gov* or by regular mail to the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date specified in the **DATES** section of this notice.

FOR FURTHER INFORMATION CONTACT: Maria Ellis, Executive Secretary for MEDCAC, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Coverage and Analysis Group, S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244 or contact Ms. Ellis by phone (410–786–0309) or via email at *Maria.Ellis@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

MEDCAC, formerly known as the Medicare Coverage Advisory Committee (MCAC), is advisory in nature, with all final coverage decisions resting with CMS. MEDCAC is used to supplement CMS' internal expertise. Accordingly, the advice rendered by the MEDCAC is most useful when it results from a process of full scientific inquiry and thoughtful discussion, in an open forum, with careful framing of recommendations and clear identification of the basis of those recommendations. MEDCAC members are valued for their background, education, and expertise in a wide variety of scientific, clinical, and other related fields. (For more information on MCAC, see the MEDCAC Charter (*http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/Downloads/medcaccharter.pdf*) and the CMS Guidance Document, *Factors CMS Considers in Referring Topics to the MEDCAC* (*http://www.cms.gov/medicare-coverage-database/details/medicare-coverage-document-details.aspx?MCDId=10*)).

II. Meeting Topic and Format

This notice announces the Wednesday, July 25, 2018, public meeting of the Committee. During this meeting, the Committee will discuss their appraisal and recommendations regarding the state of evidence for procedural volume requirements, especially pertaining to SAVRs, TAVRs and PCIs, for hospitals to begin and maintain TAVR programs. Background

information about this topic, including panel materials, is available at *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We will no longer be providing paper copies of the handouts for the meeting. Electronic copies of all the meeting materials will be on the CMS website no later than 2 business days before the meeting. We encourage the participation of organizations with expertise in procedural volume requirements, especially pertaining to SAVRs, TAVRs and PCIs, for hospitals to begin and maintain TAVR programs. This meeting is open to the public. The Committee will hear oral presentations from the public for approximately 45 minutes. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, we may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 25, 2018. Your comments should focus on issues specific to the list of topics that we have proposed to the Committee. The list of research topics to be discussed at the meeting will be available on the following website prior to the meeting: *http://www.cms.gov/medicare-coverage-database/indexes/medcac-meetings-index.aspx?bc=BAAAAAAAAAAA&.* We require that you declare at the meeting whether you have any financial involvement with manufacturers (or their competitors) of any items or services being discussed. Speakers presenting at the MEDCAC meeting should include a full disclosure slide as their second slide in their presentation for financial interests (for example, type of financial association—consultant, research support, advisory board, and an indication of level, such as minor association <$10,000 or major association >$10,000) as well as intellectual conflicts of interest (for example, involvement in a federal or nonfederal advisory committee that has discussed the issue) that may pertain in any way to the subject of this meeting. If you are representing an organization, we require that you also disclose conflict of interest information for that organization. If you do not have a PowerPoint presentation, you will need to present the full disclosure information requested previously at the beginning of your statement to the Committee.

The Committee will deliberate openly on the topics under consideration. Interested persons may observe the deliberations, but the Committee will not hear further comments during this time except at the request of the chairperson. The Committee will also allow a 15-minute unscheduled open public session for any attendee to address issues specific to the topics under consideration. At the conclusion of the day, the members will vote and the Committee will make its recommendation(s) to CMS.

III. Registration Instructions

CMS' Coverage and Analysis Group is coordinating meeting registration. While there is no registration fee, individuals must register to attend. You may register online at *http://www.cms.gov/apps/events/upcomingevents.asp?strOrderBy=1&type=3* or by phone by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the deadline listed in the **DATES** section of this notice. Please provide your full name (as it appears on your state-issued driver's license), address, organization, telephone number(s), fax number, and email address. You will receive a registration confirmation with instructions for your arrival at the CMS complex or you will be notified that the seating capacity has been reached.

IV. Security, Building, and Parking Guidelines

This meeting will be held in a federal government building; therefore, federal security measures are applicable. The Real ID Act, enacted in 2005, establishes minimum standards for the issuance of state-issued driver's licenses and identification (ID) cards. It prohibits Federal agencies from accepting an official driver's license or ID card from a state unless the Department of Homeland Security determines that the state meets these standards. Beginning October 2015, photo IDs (such as a valid driver's license) issued by a state or territory not in compliance with the Real ID Act will not be accepted as identification to enter Federal buildings. Visitors from these states/territories will need to provide alternative proof of identification (such as a valid passport) to gain entrance into CMS buildings. The current list of states from which a Federal agency may accept driver's licenses for an official purpose is found at *http://www.dhs.gov/real-id-enforcement-brief.* We recommend that confirmed registrants arrive reasonably early, but no earlier than 45 minutes prior to the start of the meeting, to allow additional time to clear security. Security measures include the following:

- Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.
- Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.
- Inspection, via metal detector or other applicable means, of all persons entering the building. We note that all items brought into CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

Note: Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.

All visitors must be escorted in areas other than the lower and first floor levels in the Central Building.

V. Collection of Information

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Authority: 5 U.S.C. App. 2, section 10(a).

Dated: May 3, 2018.

Kate Goodrich,

Director, Center for Clinical Standards and Quality, Chief Medical Officer, Centers for Medicare & Medicaid Services.

[FR Doc. 2018–10120 Filed 5–10–18; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–P–5592]

Determination That SODIUM IODIDE I 123 (Sodium Iodide I-123), Oral Solution, 2 Millicuries/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 millicuries (mCi)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for sodium iodide I 123, oral solution, 2 mCi/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Daniel Gottlieb, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6208, Silver Spring, MD 20993–0002, 301–796–6650.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (§ 314.162 (21 CFR 314.162)).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to FDA's approval of an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, is the subject of NDA 017630, held by GE Healthcare, and initially approved on March 24, 1976. SODIUM IODIDE I 123 is indicated for use in the evaluation of thyroid function or morphology.

SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

International Isotopes, Inc. submitted a citizen petition dated September 6, 2017 (Docket No. FDA–2017–P–5592), under 21 CFR 10.30, requesting that the Agency determine whether SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, was not withdrawn from sale for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, was withdrawn from sale for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to SODIUM IODIDE I 123 (sodium iodide I-123), oral solution, 2 mCi/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: May 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10099 Filed 5–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1726]

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Circulatory System Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on June 12, 2018, from 8 a.m. to 6 p.m.

ADDRESSES: Hilton Washington, DC North/Gaithersburg, Salons A, B, C, and D, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Evella Washington, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G640, Silver Spring, MD 20993–0002, *Evella.Washington@fda.hhs.gov;* 301–796–6683, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee

information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On June 12, 2018, the committee will discuss, make recommendations, and vote on the premarket approval application sponsored by Cordis, Inc. for the INCRAFT AAA Stent Graft System, which is intended for the endovascular treatment of infra-renal abdominal aortic aneurysms in patients with appropriate anatomy. The INCRAFT device is being evaluated in the INSPIRATION study, a multicenter, prospective, non-randomized investigation. The study met its primary safety and effectiveness endpoints, but results also showed higher than anticipated rates of certain adverse events. The committee discussion will focus on how these events impact the long-term safety and effectiveness, as well as the benefit/risk profile of the device.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 5, 2018. Oral presentations from the public will be scheduled on June 12, 2018, between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 25, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 29, 2018.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov,* 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10050 Filed 5–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1565]

Agency Information Collection Activities; Proposed Collection; Comment Request; Request for Samples and Protocols

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the regulations which state that protocols for samples of biological products must be submitted to the Agency.

DATES: Submit either electronic or written comments on the collection of information by July 10, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 10, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 10, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–1565 for ''Request for Samples

and Protocols.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Request for Samples and Protocols

OMB Control Number 0910–0206—Extension

Under section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to issue regulations that prescribe standards designed to ensure the safety, purity, and potency of biological products and to ensure that the biologics licenses for such products are only issued when a product meets the prescribed standards. Under § 610.2 (21 CFR 610.2), the Center for Biologics Evaluation and Research (CBER) or the Center for Drug Evaluation and Research may at any time require manufacturers of licensed biological products to submit to FDA samples of any lot along with the protocols showing the results of applicable tests prior to distributing the lot of the product. In addition to § 610.2, there are other regulations that require the submission of samples and protocols for specific licensed biological products: 21 CFR 660.6 (Antibody to Hepatitis B Surface Antigen); 21 CFR 660.36 (Reagent Red Blood Cells); 21 CFR 660.46) (Hepatitis B Surface Antigen).

Section 660.6(a) provides requirements for the frequency of submission of samples from each lot of Antibody to Hepatitis B Surface Antigen product, and § 660.6(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.6 products subject to official release by CBER, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history of manufacture of the product, including all results of each test for which test results are requested by CBER. After official release is no longer required, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Section 660.36(a) requires, after each routine establishment inspection by FDA, the submission of samples from a lot of final Reagent Red Blood Cell product along with a protocol containing specific information. Section 660.36(a)(2) requires that a protocol contain information including, but not limited to, manufacturing records, certain test records, and identity test results. Section 660.36(b) requires a copy of the antigenic constitution matrix specifying the antigens present or absent to be submitted to the CBER Director at the time of initial distribution of each lot.

Section 660.46(a) contains requirements as to the frequency of submission of samples from each lot of Hepatitis B Surface Antigen product, and § 660.46(b) contains the requirements as to the submission of a protocol containing specific information along with each required sample. For § 660.46 products subject to official release by CBER, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history or manufacture of the product, including all results of each test for which test results are requested by CBER. After notification of official release is received, one sample along with a protocol is required to be submitted at 90-day intervals. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to CBER if continued evaluation is deemed necessary.

Samples and protocols are required by FDA to help ensure the safety, purity, or potency of the product because of the potential lot-to-lot variability of a

product produced from living organisms. In cases of certain biological products (*e.g.,* Albumin, Plasma Protein Fraction, and therapeutic biological products) that are known to have lot-to-lot consistency, official lot release is not normally required. However, submissions of samples and protocols of these products may still be required for surveillance, licensing, and export purposes, or in the event that FDA obtains information that the manufacturing process may not result in consistent quality of the product.

The following burden estimate is for the protocols required to be submitted with each sample. The collection of samples is not a collection of information under 5 CFR 1320.3(h)(2). Respondents to the collection of information under § 610.2 are manufacturers of licensed biological products. Respondents to the collection of information under §§ 660.6(b), 660.36(a)(2) and (b), and 660.46(b) are manufacturers of the specific products referenced previously in this document. The estimated number of respondents for each regulation is based on the annual number of manufacturers that submitted samples and protocols for biological products including submissions for lot release, surveillance, licensing, or export. Based on information obtained from FDA's database system, approximately 79 manufacturers submitted samples and protocols in fiscal year (FY) 2017, under the regulations cited previously in this document. FDA estimates that approximately 75 manufacturers submitted protocols under § 610.2 and two manufacturers submitted protocols under the regulation (§ 660.6) for the other specific product. FDA received no submissions under §§ 660.36 or 660.46, however FDA is using the estimate of one protocol submission under each regulation in the event that protocols are submitted in the future.

The estimated total annual responses are based on FDA's final actions completed in FY 2017 for the various submission requirements of samples and protocols for the licensed biological products. The average burden per response is based on information provided by industry. The burden estimates provided by industry ranged from 1 to 5.5 hours. Under § 610.2, the hours per response are based on the average of these estimates and rounded to 3 hours. Under the remaining regulations, the average burden per response is based on the higher end of the estimate (rounded to 5 or 6 hours) since more information is generally required to be submitted in the other protocols than under § 610.2. FDA estimates the burden of this information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
610.2—Requests for Samples and Protocols; Official Release	75	86.267	6,470	3	19,410
660.6(b)—Protocols	2	3.5	7	5	35
660.36(a)(2) and (b)—Samples and Protocols	1	1	1	6	6
660.46(b)—Protocols	1	1	1	5	5
Total	79		6,479		19,456

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 764 hours and a corresponding increase of 262 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: May 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10052 Filed 5–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0238]

Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Section 503B defines an outsourcing facility, in part, as ''a facility at one geographic location or address.'' FDA has received questions from outsourcing facilities and other stakeholders about the meaning of this term, such as whether multiple suites used for compounding human drugs at a single street address constitute one or multiple facilities, or whether a single location where human drugs are compounded can be subdivided into separate operations compounding under different standards. FDA is issuing this guidance to provide the Agency's current thinking on these questions and related issues regarding how to ensure that the compounding of drugs in an outsourcing facility occurs only in accordance with section 503B.

DATES: The announcement of the guidance is published in the **Federal Register** on May 11, 2018.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal. https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that

identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0238 for ''Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Sara Rothman, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5197, Silver Spring, MD 301–796–3110.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Section 503B (21 U.S.C. 353b), added to the Federal Food, Drug, and Cosmetic Act (FD&C Act) by the Drug Quality and Security Act in 2013, created a new category of compounders called outsourcing facilities. Section 503B describes the conditions that must be satisfied for human drug products compounded by or under the direct supervision of a licensed pharmacist in an outsourcing facility to qualify for exemptions from three sections of the FD&C Act:

• Section 502(f)(1) (21 U.S.C. 352(f)(1)) (concerning labeling requirements);

• Section 505 (21 U.S.C. 355) (concerning drug approval requirements); and

• Section 582 (21 U.S.C. 360eee–1) (concerning Drug Supply Chain Security Act requirements).

Section 503B(d)(4) of the FD&C Act defines an outsourcing facility as a facility at one geographic location or address that: (1) Is engaged in the compounding of sterile drugs; (2) has elected to register as an outsourcing facility; and (3) complies with all of the requirements of this section. In addition, an outsourcing facility is not required to be a licensed pharmacy, and it may or may not obtain prescriptions for identified individual patients. Because drugs compounded by outsourcing facilities are not exempt from section 501(a)(2)(B) of the FD&C Act (21 U.S.C. 351(a)(2)(B)), outsourcing facilities are subject to current good manufacturing practice requirements.

FDA has received questions from outsourcing facilities and other stakeholders about the meaning of the term ''facility at one geographic location or address,'' such as whether multiple suites used for compounding human drugs at a single street address constitute one or multiple facilities, or whether a single location where human drugs are compounded can be subdivided into separate operations compounding under different standards. FDA is issuing this guidance to provide its current thinking on these questions and related issues regarding how to ensure that the compounding of drugs in an outsourcing facility occurs only in accordance with section 503B.

In the **Federal Register** of April 18, 2016 (81 FR 22611), FDA issued a notice announcing the availability of the draft version of this guidance. The comment period on the draft guidance ended on July 18, 2016. FDA received 19 comments on the draft guidance. In response to received comments, FDA made certain changes. In particular, FDA revised the guidance to provide for a compounder seeking to operate under section 503A of the FD&C Act (21 U.S.C. 353a) to be located next to an outsourcing facility provided that there is complete segregation between the outsourcing facility and the 503A compounder.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Facility Definition Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the internet may obtain the guidance at either

https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm or *https://www.regulations.gov.*

Dated: May 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10046 Filed 5–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0407]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Pilot Project Program Under the Drug Supply Chain Security Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by June 11, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–NEW and title ''Pilot Project Program Under the Drug Supply Chain Security Act.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance:

The DSCSA Pilot Project Program

OMB Control Number 0910—NEW

FDA will be establishing the Drug Supply Chain Security Act (DSCSA) (Title II of Pub. L. 113–54) Pilot Project Program to implement section 582(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee–1). This program will assist FDA in developing an interoperable, electronic system to identify and trace certain prescription drugs as the drugs are distributed in the United States by the year 2023. The Pilot Project Program goals include assessing the ability of supply chain members to: (1) Satisfy the requirements of section 582 of the FD&C Act; (2) identify, manage, and prevent the distribution of suspect and illegitimate products as defined in section 581(21) and (8) of the FD&C Act (21 U.S.C. 360eee(21) and (8)), respectively; and (3) demonstrate the electronic, interoperable exchange of product tracing information across the pharmaceutical distribution supply chain, in addition to identifying the system attributes needed to implement the requirements of section 582 of the FD&C Act, particularly the requirement to utilize a product identifier for product tracing purposes. FDA plans to coordinate with stakeholders that reflect the diversity of the pharmaceutical distribution supply chain, including large and small entities from all industry sectors.

Title: The DSCSA Pilot Project Program.

Description of Respondents: Respondents of this collection of information are participants from the pharmaceutical distribution supply chain (authorized manufacturers, repackagers, wholesale distributors, and dispensers) and other stakeholders.

Background Information: FDA will be seeking pilot project participants from the pharmaceutical distribution supply chain (authorized manufacturers, repackagers, wholesale distributors, and dispensers) and other stakeholders. FDA expects that participants will propose the design and execution of their pilot project in their submission to FDA; however, FDA also intends to meet with all pilot project participants to ensure that lessons learned from the pilot project(s) will inform FDA's development of the electronic, interoperable system that will take effect in 2023. FDA encourages supply chain members to focus their proposed pilot project(s) on the DSCSA requirements related to the interoperable, electronic tracing of products at the *package level.* Specifically, the pilot project(s) should focus on the requirements for package-level tracing and verification that take effect in 2023. Such pilot projects will be more useful than pilot projects dedicated to lot-level tracing. If there are adequate pilot project submissions, FDA may establish more than one pilot project to accomplish the goals of the DSCSA Pilot Project Program.

Because there is an information collection under the PRA associated with the DSCSA Pilot Project Program, this **Federal Register** notice is being issued as part of the process for OMB approval to collect this information. After OMB approval of this information collection, FDA will accept applications to participate in the program and will select qualified applications. FDA will announce OMB's approval in the **Federal Register**, the date that applications may be submitted, and application submission procedures.

In the **Federal Register** of July 20, 2017 (82 FR 33497), FDA published a 60-day notice requesting public comment on the proposed collection of information. A summary of the comments and FDA's responses are as follows.

(Comment 1) Several comments raised concerns with the proposed timelines related to initiation of pilot projects, duration of pilot projects, and final reports. One comment expressed concern that 4 months (after receiving a letter of acceptance from FDA) may not be enough time for a potential participant to be ready to initiate their pilot project. Another comment suggested that the proposed duration of pilot projects (no more than 6 months) should be longer and FDA should give the participant(s) more flexibility to conduct the pilot project. In addition, another comment expressed concern with the proposed requirement that final reports be completed within 30 days, because that may not be enough time to complete a final report.

(Response 1) The proposed timelines were intended to enable completion of FDA's Pilot Project Program within 1 year of the start date. FDA would like to complete the program in a timely manner so that the information learned can be shared and utilized by supply chain participants as they prepare and implement remaining DSCSA requirements that take effect between 2018 and 2023. To optimize the program, FDA expects pilot project participants to be ready to initiate their pilot project within 4 months after receiving a letter of acceptance from FDA. This will help ensure that participants have worked out funding, resources, planning, and other issues in advance of initiation of the pilot project. FDA provided flexibility in the program

by allowing the Agency to consider pilot projects that may go beyond a 6-month period; however, a pilot project duration of 6 months or less is preferred.

(Comment 2) Another comment requested clarification of the proposed process for selecting participants. The comment expressed concern that FDA's Pilot Project Program may include only those entities that are most engaged in DSCSA implementation currently. The comment also described concern that the findings and results may not accurately reflect the current environment, because the program may not include supply chain members with fewer resources, less sophisticated compliance methods, or that are not as closely connected as other trading partners.

(Response 2) Participation in the Pilot Project Program is open to anyone in the pharmaceutical distribution supply chain (authorized manufacturers, repackagers, wholesale distributors, and dispensers) and other stakeholders. FDA plans to coordinate with stakeholders that reflect the diversity of the pharmaceutical distribution supply chain, including large and small entities from all industry sectors. FDA expects that participants will propose the design and execution of their pilot project in their submission to FDA, which may include coordination with partnering entities. Such coordination may help resolve some of the concern that the findings and results may not accurately reflect the current environment of supply chain members that may have fewer resources or less sophisticated compliance methods.

(Comment 3) Another comment did not support FDA considering products for eligibility in proposed pilot projects that may be outside the scope of the DSCSA definition of ''product,'' such as over-the-counter medications. The comment suggested that if FDA is expanding the scope of pilot projects to include additional products, then the timeline for pilot projects would need to be delayed beyond 2023 to allow sufficient time for supply chain participants to adjust to the needs of these expanded pilots.

(Response 3) Allowing FDA to consider products eligible for the Pilot Project Program that may be outside the DSCSA definition of ''product'' was intended to provide flexibility to potential participants that may choose to test a process or system involving broader categories of products. Including products that are outside the DSCSA definition in pilot projects is not a requirement; however, we believe there may be an opportunity to learn from such pilot projects. This consideration does not justify a need to delay the timeline for the pilot projects beyond 2023. It will be up to participants to propose the design and execution of their pilot project in their submission to FDA. FDA will consider multiple factors to ensure that the pilot project(s) selected for the program will support the program goals.

(Comment 4) Another comment believed that having pilot participants fund their pilot projects would conflict with the need to include a diverse set of supply chain stakeholders because some supply chain stakeholders do not have the resources to participate in a pilot project.

(Response 4) There is no FDA funding for the Pilot Project Program provided in the DSCSA, and participation is on a volunteer basis. FDA plans to coordinate with stakeholders that reflect the diversity of the pharmaceutical distribution supply chain, including large and small entities from all industry sectors. FDA expects participants to be responsible for funding and providing resources to support the pilot projects. Participants will develop and propose the design and execution of their pilot project in their submission to FDA, which may include coordination with partnering entities in a manner that may resolve resource concerns.

Reporting Burden Estimates: FDA estimates that no more than 10 respondents will submit a request to participate, and that it will take approximately 80 hours to complete a request and submit the request to FDA. FDA estimates that it will select no more than eight respondents for the pilot program. The estimated total time for respondents to submit a request to participate in the program is 800 hours. Once the request to participate is accepted, the submitter is now a participant of the DSCSA Pilot Project Program. FDA estimates that the eight respondents (*i.e.,* participants) will submit an average of five progress reports to FDA. Because the duration of a pilot project should not exceed 6 months, the frequency of the progress reports will vary based on the length of the individual pilot project. Pilot projects of relatively shorter duration may result in shorter time intervals between progress reports so that the reports will be sufficient to capture progress while the pilot project is ongoing. FDA estimates that it will take approximately 8 hours to compile and submit each progress report. The estimated total number of hours for submitting progress reports would be 320 hours. After completion of their pilot project, each participant will provide one final report to FDA. FDA estimates that it will take the eight participants approximately 40 hours to submit a final report. The estimated total number of hours for submitting the final report is 320 hours. The total hours for the estimated reporting burden are 1,440 hours (table 1).

Recordkeeping Burden Estimates: Recordkeeping activities include storing and maintaining records related to submitting a request to participate in the program and compiling reports. Respondents can use current record retention capabilities for electronic or paper storage to achieve these activities. FDA estimates that no more than 10 respondents will have recordkeeping activities related to program participation. FDA believes that it will take 0.5 hour/year to ensure that the documents related to submitting a request to participate in the program are retained properly for a minimum of 1 year after the pilot project is completed (as recommended by FDA). The resulting total to maintain the records related to submitting a request is 5 hours annually. For retaining records related to progress reports and the final report properly for a minimum of 1 year after the pilot project is completed (as recommended by FDA), FDA estimates that it will take approximately 0.5 hour/year. As noted previously, FDA estimates that the eight respondents will submit an average of five progress reports and one final report to FDA. The estimated total for maintaining progress reports and the final report is 20 and 4 hours, respectively. The total recordkeeping burden is estimated to be 29 hours (table 2).

In developing its burden estimate for records associated with the proposed pilot projects, FDA has taken account of existing industry practices for maintaining records in the normal course of their business. In particular, FDA is aware of various supply chain stakeholders that have conducted pilot projects over the past few years, including some pilot projects that occurred before the DSCSA was enacted. These pilot projects covered topics related to serialization, movement of product data, aggregation of data, and verification of product identifiers of returned products. Members of the supply chain who conduct pilot projects of their own accord created associated records as a matter of usual and customary business practice. Therefore, FDA considers these activities associated with a pilot project to be usual and customary business practice, and the burden estimates for like records are not included in the

calculation of the recordkeeping burden (see 5 CFR 1320.3(b)(2)).

Third-Party Disclosure Burden Estimates: For those pilot projects that involve a participant composed of partnering entities in the program, FDA is taking into consideration the time that partnering entities will spend coordinating with each other during a pilot project. For the initial request to participate, FDA estimates that eight respondents will work with their respective partnering entities, and the average number of partnering entities will be two. FDA estimates that each respondent will spend 8 hours coordinating with each partnering entity. Thus, for 8 respondents with an average of 2 partnering entities, the estimated total burden for coordinating with partnering entities related to the submission of the request to participate in the program is 128 hours. FDA estimates that seven respondents will need to coordinate with an average of two partnering entities to create progress reports and the final report to submit to FDA. Earlier, FDA estimated that an average of five progress reports will be submitted to FDA per respondent. If a respondent has an average of 2 partners, it will coordinate 10 times with those partners on the progress reports. FDA estimates that for each progress report, it will take 4 hours to coordinate with each partner, resulting in a total of 280 hours. FDA estimates that for each final report, it will take approximately 20 hours to coordinate with each partner, resulting in a total of 280 hours. The total estimation for third-party disclosure burden is 688 hours (table 3).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED REPORTING BURDEN [1]

DSCSA pilot project program	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Requests to participate	10	1	10	80	800
Progress reports	8	5	40	8	320
Final report to FDA	8	1	8	40	320
Total					1,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

DSCSA pilot project program	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
Records related to requests to participate	10	1	10	0.5 (30 minutes)	5
Records related to progress reports	8	5	40	0.5 (30 minutes)	20
Records related to the final report to FDA	8	1	8	0.5 (30 minutes)	4
Total					29

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

DSCSA pilot project program	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Coordination with partnering entities related to requests to participate	8	2	16	8	128
Coordination with partnering entities related to progress reports	7	10	70	4	280
Coordination with partnering entities related to final reports	7	2	14	20	280
Total					688

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 7, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10051 Filed 5–10–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Advisory Committee on Minority Health

AGENCY: Office of Minority Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that the Advisory Committee on Minority Health (ACMH) will hold a meeting conducted as a telephone conference call. This call will be open to the public. Preregistration is required for both public participation and comment. Any individual who wishes to participate in the call should email *OMH-ACMH@hhs.gov* by June 18, 2018. Instructions regarding participating in the call and how to provide verbal public comments will be given at the time of preregistration.

Information about the meeting is available from the designated contact and will be posted on the website for the Office of Minority Health (OMH), *www.minorityhealth.hhs.gov.* Information about ACMH activities can be found on the OMH website under the heading *About OMH.*

DATES: The conference call will be held on June 19, 2018, 1:00 p.m.–3:00 p.m. ET.

ADDRESSES: Instructions regarding participating in the call will be given at the time of preregistration.

FOR FURTHER INFORMATION CONTACT: Dr. Minh Wendt, Designated Federal Officer, Advisory Committee on Minority Health, Office of Minority Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852. Phone: 240–453–8222; fax: 240–453–8223; email *OMH-ACMH@hhs.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Public Law 105–392, the ACMH was established to provide advice to the Deputy Assistant Secretary for Minority Health on improving the health of each racial and ethnic minority group and on the development of goals and specific program activities of the OMH.

The topics to be discussed during the teleconference include finalizing recommendations regarding creating a culturally sensitive system of care related to opioid misuse, discussing recommendations on the topic of serious mental illness, and discussing the agenda for the next meeting. The recommendations will be given to the Deputy Assistant Secretary for Minority Health.

This call will be limited to 125 participants. The OMH will make every effort to accommodate persons with special needs. Individuals who have special needs for which special accommodations may be required should contact Professional and Scientific Associates at (703) 234–1700 and reference this meeting. Requests for special accommodations should be made at least ten (10) business days prior to the meeting.

Members of the public will have an opportunity to provide comments at the meeting. Public comments will be limited to two minutes per speaker during the time allotted. Individuals who would like to submit written statements should email, mail, or fax their comments to the designated contact at least seven (7) business days prior to the meeting.

Any members of the public who wish to have electronic or printed material distributed to ACMH members should email *OMH-ACMH@hhs.gov* or mail their materials to the Designated Federal Officer, ACMH, Tower Building, 1101 Wootton Parkway, Suite 600, Rockville, Maryland 20852, prior to close of business on June 14, 2018.

Dated: May 4, 2018.

Minh Wendt,

Designated Federal Officer, Advisory Committee on Minority Health.

[FR Doc. 2018–10125 Filed 5–10–18; 8:45 am]

BILLING CODE 4150–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—B Review of T32 Applications.

Date: June 25–26, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Lisa A. Newman, SCD, Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, 45 Center Drive, RM 3AN18A, Bethesda, MD 20814, (301) 435–0965, *newmanla2@mail.nih.gov.*

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Subcommittee—A Review of T32 Applications.

Date: July 16–17, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at Chevy Chase, 4300 Military Road NW, Washington, DC 20015.

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18J, Bethesda, MD 20892, 301–594–2773, *laffanjo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 8, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10078 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Draft Report on Carcinogens Monograph on Helicobacter pylori: Chronic Infection; Availability of Document; Request for Comments

AGENCY: National Institutes of Health, HHS

ACTION: Notice.

SUMMARY: The National Toxicology Program (NTP) announces the availability of the Draft Report on Carcinogens (RoC) Monograph on *Helicobacter pylori:* Chronic Infection

for public comment. The Office of the Report on Carcinogens (ORoC), Division of the National Toxicology Program (DNTP), National Institute of Environmental Health Sciences (NIEHS) prepared the monograph.

DATES:

Document Availability: The draft monograph should be available by May 11, 2018, at *https://ntp.niehs.nih.gov/go/845046.*

Written Public Comments Submission: Deadline is June 1, 2018.

ADDRESSES: Written public comments should be submitted electronically at *https://ntp.niehs.nih.gov/go/845046.*

FOR FURTHER INFORMATION CONTACT: NTP Meetings Staff, 2635 Meridian Parkway, Suite 200, Durham, NC, USA 27713. Phone: (919) 293–1660, Fax: (919) 293–1645, Email: *NTP-Meetings@icf.com.*

SUPPLEMENTARY INFORMATION:

Background: The RoC is a congressionally mandated, science-based, public health report that identifies agents, substances, mixtures, or exposures (collectively called ''substances'') in our environment that pose a cancer hazard for people in the United States. NTP prepares the RoC on behalf of the Secretary of Health and Human Services.

NTP follows a four-part process using established listing criteria to evaluate substances for possible listing in the RoC and prepare the report (*https://ntp.niehs.nih.gov/go/rocprocess*). For each substance selected for review, a draft RoC monograph is prepared that presents (1) information on human exposure to the substance; (2) an assessment of the evidence from cancer studies in humans and experimental animals, mechanisms of carcinogenicity, and other data relevant for evaluating the substance's potential carcinogenicity; and (3) NTP's preliminary RoC listing recommendation. This information is presented in the substance profile in the *Helicobacter pylori (H. pylori)* monograph. The monograph also includes a summary of strategies to prevent *H. pylori*-associated cancers.

H. pylori was selected for review following solicitation of public comment, review by the NTP Board of Scientific Counselors on April 11, 2016, and approval by the NTP Director (*https://ntp.niehs.nih.gov/go/9741*). Information on the NTP review of *H. pylori* is available at *https://ntp.niehs.nih.gov/go/791433. H. pylori* is a gram-negative, multi-flagellated bacterium that colonizes the luminal mucosal surface of the body (corpus) and lower portion (antrum) of the stomach; if untreated, the infection usually lasts for the individual's lifetime. Chronic infection can cause gastritis and peptic ulcers. The bacterium is spread by person-to-person contact, especially among family members. Risk factors for *H. pylori* infection include age, race or ethnicity (minority), socioeconomic status (low family income and lower education level), and crowded housing.

Request for Comments: NTP invites written public comments on the draft monograph. The deadline for submission of written comments is June 1, 2018. Written public comments should be submitted electronically at *https://ntp.niehs.nih.gov/go/845046.* Any other correspondence should be sent to NTP Meetings Staff by email: *NTP-Meetings@icf.com.* Persons submitting written comments should include their name, affiliation (if applicable), phone, email, and sponsoring organization (if any) with the document. Written comments received in response to this notice will be posted on the NTP website (*https://ntp.niehs.nih.gov/go/845046*), with the submitter identified by name, affiliation, and/or sponsoring organization. Following the public comment period, the draft monograph will undergo external peer review by letter. Comments that address scientific or technical issues will be shared with external scientists for their consideration during the peer review. Guidelines for public comments are at *http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_publiccomments_508.pdf.*

Background Information on RoC: Each edition of the RoC is cumulative and consists of substances newly reviewed in addition to those listed in previous editions. The Secretary of Health and Human Services approves new listings. For each listed substance, the RoC contains a substance profile, which provides information on cancer studies that support the listing—including those in humans and animals and studies on possible mechanisms of action, informational about potential sources of exposure to humans, and current Federal regulations to limit exposures. The 14th RoC, the latest edition, was published on November 3, 2016 (available at *http://ntp.niehs.nih.gov/go/roc*).

Dated: May 2, 2018.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2018–10075 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; BRAIN Initiative: Tools to Facilitate High-Throughput Microconnectivity Analysis.

Date: June 5, 2018.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Vinod Charles, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Confirmatory Efficacy Clinical Trials of Non-Pharmacological Interventions for Mental Disorders.

Date: June 7, 2018.

Time: 12:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health, NIH Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Early Phase Developmental Pharma/Device Clinical Trials.

Date: June 12, 2018.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Neuroscience Center, 6001 Executive

Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: David I. Sommers, Ph.D., Scientific Review Officer Division of Extramural Activities, National Institute of Mental Health National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892, 301–443–7861, *dsommers@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants; National Institutes of Health, HHS)

Dated: May 8, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10079 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of 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 General Medical Sciences Special Emphasis Panel; Review of Mira Applications.

Date: June 26, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Robert Horowits, Ph.D., Scientific Review Officer, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892–6200, 301–594–6904, *horowitr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 8, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10077 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer 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.

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 grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; UH2/UH3 Review.

Date: June 7, 2018.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant application.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W110 Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Robert E. Bird, Ph.D., Scientific Review Officer, Research Program Review Branch Division of Extramural Activities National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892–9750, 240–276–6344, *birdr@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Multi-Site R01 Review.

Date: June 14, 2018.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 7W110, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Robert E. Bird, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, Bethesda, MD 20892–9750, 240–276–6344, *birdr@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Biological Comparisons in Patient-Derived Models of Cancer (U01).

Date: July 2, 2018.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute, Shady Grove, 9609 Medical Center Drive, Room 5W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D., Scientific Review Officer, Research Program Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W120, Bethesda, MD 20892–9750, 240–276–6457, *mh101v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: May 8, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10076 Filed 5–10–18; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Muscle and Exercise Physiology Study Section.

Date: June 4–5, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.

Contact Person: Richard Ingraham, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116,

MSC 7814, Bethesda, MD 20892, 301–496–8551, *ingrahamrh@mail.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 7–8, 2018

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Maria Nurminskaya, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20892, (301) 435–1222, *nurminskayam@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.

Date: June 7–8, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Liliana Norma Berti-Mattera, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, RM 4215, Bethesda, MD 20892, *liliana.berti-mattera@nih.gov*.

Name of Committee: Healthcare Delivery and Methodologies Integrated Review Group; Nursing and Related Clinical Sciences Study Section.

Date: June 7–8, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Martha L Hare, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3154, MSC 7770, Bethesda, MD 20892, (301) 451–8504, *harem@mail.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—A Study Section.

Date: June 7–8, 2018.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Silver Spring, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: David B Winter, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1152, *dwinter@mail.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: May 7, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10010 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 materials, 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 on Minority Health and Health Disparities Special Emphasis Panel; Research to Prevent HIV in Health Disparity Populations.

Date: June 14, 2018.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health NIMHD, 7201 Wisconsin Ave. Suite 533, Bethesda, MD 20814 (Telephone Conference).

Contact Person: Richard C. Palmer, DRPH, Health Scientist Administrator, National Institute on Minority Health and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave. Bethesda, MD 20814, (301) 451–2432, *richard.palmer@nih.gov*.

Dated: May 7, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10081 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; 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 materials, 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 on Minority Health and Health Disparities Special Emphasis Panel; Health and Resilience after Hurricanes.

Date: June 11–12, 2018.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health NIMHD, 7201 Wisconsin Ave., Suite 533, Bethesda, MD 20814 (Telephone Conference).

Contact Person: Thomas M. Vollberg, Sr., Ph.D., Chief, Scientific Review Branch, National Institute on Minority Health and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave., Bethesda, MD 20814, (301) 594–8770, *vollbert@mail.nih.gov*.

Dated: May 7, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10080 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders 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 on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Application Review.

Date: June 8, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Chemical Senses Fellowship Review.
Date: June 12, 2018.
Time: 1:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Sheo Singh, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *singhs@nidcd.nih.gov.*

Name of Committee: Communication Disorders Review Committee.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda North Marriott Hotel & Conference Center, Montgomery County Conference Center, Facility 5701 Marinelli Road, North Bethesda, MD 20852.
Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute on Deafness and other Communication Disorders/NIH, 6001 Executive Blvd., MSC 9670, Bethesda, MD 20892–8401, 301–496–8683, *el6r@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Voice, Speech and Language Fellowship Review.
Date: June 21, 2018.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301–496–8683, *yangshi@nidcd.nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Clinical Research Center Review.
Date: June 26, 2018.
Time: 11:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Katherine Shim, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIH/NIDCD, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *katherine.shim@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Clinical Trial Review.
Date: June 27, 2018.
Time: 12:00 p.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Katherine Shim, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIH/NIDCD, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *katherine.shim@nih.gov.*

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Clinical Research Center Review.
Date: July 12, 2018.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Kausik Ray, Ph.D., Scientific Review Officer, National Institute on Deafness and Other Communication Disorders, National Institutes of Health Rockville, MD 20850, 301–402–3587, *rayk@nidcd.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: May 7, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10011 Filed 5–10–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0138]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0005

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting approval for reinstatement, without change, of the following collection of information: 1625–0005, Application and Permit to Handle Hazardous Material; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Comments must reach the Coast Guard and OIRA on or before June 11, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0138] to the Coast Guard using the Federal eRulemaking Portal at *http://www.regulations.gov.* Alternatively, you may submit comments to OIRA using one of the following means:

(1) *Email: dhsdeskofficer@omb.eop.gov.*

(2) *Mail:* OIRA, 725 17th Street NW, Washington, DC 20503, attention Desk Officer for the Coast Guard.

A copy of the ICR is available through the docket on the internet at *http://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–612), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King, Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION: Contact Mr. Anthony Smith, Office of Information Management, telephone 202–475–3532, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This Notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection. The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate

comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2018–0138], and must be received by June 11, 2018.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

OIRA posts its decisions on ICRs online at *http://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0005.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (83 FR 9011, March 2, 2018) required by 44 U.S.C. 3506(c)(2). That Notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Application and Permit to Handle Hazardous Material.

OMB Control Number: 1625–0005.

Summary: The information is used to ensure the safe handling of explosives and other hazardous materials around ports and aboard vessels.

Need: Title 33 U.S.C. 1225 and 1231 authorize the Coast Guard to establish standards for the handling, storage, and movement of hazardous materials on a vessel and waterfront facility. Regulations in 33 CFR 126.17, 49 CFR 176.100, and 176.415 prescribe the rules for facilities and vessels.

Forms: CG–4260, Application and Permit to Handle Hazardous Materials.

Respondents: Shipping agents and terminal operators that handle hazardous materials.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 182 hours to 308 hours a year due to an increase in the estimated number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 3. 2018.

James D. Roppel,

U.S. Coast Guard, Division Chief, Directives and Publications.

[FR Doc. 2018–10062 Filed 5–10–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7001–N–23]

30-Day Notice of Proposed Information Collection: Capital Needs Assessments-CNA e Tool

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* June 11, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax:202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email *Inez.C.Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 28, 2018 at 83 FR 8695.

A. Overview of Information Collection

Title of Information Collection: Capital Needs Assessments-CNA e Tool.

OMB Approved Number: 2502–0505.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: A Capital Needs Assessment is a detailed review of a property's expected capital expenditures over future years. It is needed to appropriately value a property, to determine financial sustainability, and to plan for funding of an escrow account to be used for capital repair and replacement needs during the estimate period. It is used by lenders, and property owners, developers, and HUD for valuation, underwriting, and asset management purposes.

Respondents: (*i.e., affected public*): Property owners, buyers, mortgage lenders, assisted housing providers, or those receiving rental assistance.

Estimated Number of Respondents: 2,041.

Estimated Number of Responses: 2,041.

Frequency of Response: 1.

Average Hours per Response: 40.

Total Estimated Burdens: 81,640.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) 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) The accuracy of the agency'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 those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: May 3, 2018.

Inez C. Downs,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2018–10105 Filed 5–10–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7009–N–05]

Privacy Act of 1974; System of Records Personnel Security Integrated Tracking System (PerSIST)

AGENCY: Office of Chief Human Capital Officer, HUD.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, The Department of Housing Urban and Development (HUD), Office of Chief Human Capital Officer (OCHCO) proposes to implement a new system of records titled Personnel Security Integrated Tracking System (PerSIST) in Fiscal Year 2018. PerSIST will replace the Department's legacy system, Personnel Security Files (PSF) henceforth, PSF will be decommissioned in Fiscal Year 2019. PerSIST is an enterprise personnel security case management system that automates activities associated with the tracking of personnel security investigations for HUD. PerSIST enables HUD's Personnel Security Division (PSD) staff to store and manage HUD personnel security information, manage the integrated workflow processes, manage activities, manage caseloads, and reporting capabilities relative to personnel security investigations. Records in the system are used to document and support decisions regarding the suitability, eligibility, and fitness of applicants for federal and contract employment to include: Students, interns, or volunteers to the extent that their duties require access to federal facilities, information, systems, or applications. Additionally, records may be used to document security violations, and supervisory actions taken. Information contained in PerSIST includes but is not limited to: Employment records, education history, credit history, subjects' previous addresses, names of friends, neighbors, and associates, selective service records, military history, citizenship, pre-employment waivers, Background Investigations (BI's), security clearances, Sensitive Compartmented Information (SCI) access, clearance receipts (reciprocity), reinvestigations, completion dates of various security checks, and adjudication status/notes and decisions.

DATES: *Applicable Date:* This notice will become effective June 11, 2018.

ADDRESSES: You may submit comments, identified by docket number by one of the following methods: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410. Comments may be filed electronically by accessing: *www.regulations.gov. Regulations.gov* provides clear instructions on how to submit a public comment on a rule. Communications should refer to the above docket number and title. Faxed comments are not accepted. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

Federal e-Rulemaking Portal: http://www.regulations.gov. Follow the instructions provided on that site to submit comments electronically.

Fax: 202–619–8365.

Email: privacy@hud.gov.

Mail: Attention: Privacy Office; [John Bravacos]; The Executive Secretariat; 451 Seventh Street SW, Room 10139; Washington, DC 20410.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov.* including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001; telephone number 202–708–3054 (this is not a toll-free number). Individuals who are hearing- or speech-impaired may access this telephone number via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: HUD is decommissioning its' legacy system of records titled Personnel Security Files (PSF) and replacing it with the Personnel Security Integrated Tracking System (PerSIST). PSF is an access based system that HUD has been utilizing since 2006. It requires manual processing and offers limited capabilities for data collection, file storage, file tracking, and file retrievals. The PSF system also lacks many capabilities needed to support HUD background security investigations such as multi-user access, workflow definition, workflow tracking, and the ability to interface with interagency systems such as the Office of Personnel Management Electronic Questionnaires for Investigations Processing (e-QIP) and Personnel Investigations Processing System (PIPS).

PII collected in PerSIST will remain consistent with data categories collected in PSF however, PerSIST reduces errors associated with manual entries, streamlines front-end/back-end data collection, offers the advance capabilities, takes advantage of the latest tools and technologies, and supports data exchange with both internal and external agency systems. PerSIST will allow HUD to realize process improvements, efficiencies and acquire the ability to capture data related to all aspects of pre-appointments, suitability determinations, and security clearance processing.

Additionally, PerSIST has the ability to leverage and share information with existing HUD systems and directly support these functions.

SYSTEM NAME AND NUMBER

Personnel Security Integrated System for Tracking (PerSIST); P315.

SECURITY CLASSIFICATION:

This system will not house any classified information.

SYSTEM LOCATION:

The PerSIST system is located at: The Department of Housing and Urban

Development Headquarters, 451 Seventh Street SW, Room 2135, Washington, DC 20410.

Cloud Data Center location(s):

Production Hosting Data Center is located at 44470 Chilum Pl., Ashburn, VA 20147.

Backup Data Center is located at 180 Peachtree St. NW, Atlanta, GA 30303.

SYSTEM MANAGER(S):

Felicia Purifoy, Director of Human Capital Services, 451 7th Street SW, Room 2272B; U.S. Department of Housing and Urban Development; Washington, DC 20410–0001, telephone number 202–402–2256.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Relative to the purpose of your investigation, the U.S. government is authorized to request this information under Executive Orders: 10865, 12333, 12356, and 13764. Sections 3301 and 9101, of title 5, U.S. Code; section 2165 of title 42, U.S. Code; sections 781 to 887 of title 50, U.S. Code; parts 5, 732, and 736 of title 5, Code of Federal Regulations; and Homeland Security Presidential Directive (HSPD) 12, Policy for a Common Identification Standard for Federal Employees and Contractors, August 21, 2004. Forms: SF–85, SF–85P, SF–86, SF–87. Amending the civil service rules, Executive Order 13488, and Executive Order 13467 to Modernize the Executive Branch governance structure and processes for security clearances, suitability and fitness for employment, and credentialing and related matters.

PURPOSES OF THE SYSTEM:

Records in the system are used to document and support decisions regarding the suitability, eligibility, and fitness for services of applicants for federal employment and contract positions to include students, interns, or volunteers to the extent that their duties require access to federal facilities, information, systems, or applications. Additionally, records may be used to document security violations, and supervisory actions taken.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Data will be collected from HUD Employees, Applicants for new hire, Contractors, Students, Interns, or volunteers to the extent that their duties require access to federal facilities, information, systems, or applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data will be collected on all individuals who are being considered for employment *i.e.* employees, new hires, contractors, student interns, volunteers or access to HUD facilities, systems, or applications:

- Full Name,
- former names,
- date of birth,
- birth place,
- Social Security number,
- Home address,
- phone numbers,
- employment history,
- residential history,
- education and degrees earned,
- names of associates,
- references and their contact information,
- citizenship,
- names of relatives,
- birthdates and birth places of relatives,
- citizenship of relatives,
- Names of relatives who work for the Federal government,
- criminal history,
- mental health history,
- History of drug use,
- Financial information,
- fingerprints,
- summary report of investigation,
- results of suitability decisions,
- level of security clearance(s) held,
- date of issuance of security clearance,
- requests for appeal,
- witness statements,
- investigator's notes,
- Tax return information,
- credit reports,
- security violations,
- circumstances of violation, and agency action taken.

RECORD SOURCE CATEGORIES:

1. OPM e-QIP–OMP will provide a conduit for applicants to collect a full disclosure of PII (reference list of PII collected under sec. *Categories of Records in the System*) through the Electronic Questionnaire for Investigations (e-QIP). e-QIP is an electronic form that is downloaded by the applicant/employee; the applicant/employee populates the form and the information is transferred to HUD via an encrypted file transfer, e-QIP records an applicant record in PerSIST system upon the applicants' completion. Government- created general service forms, and HUD forms.

2. OF–306, Declaration for Federal Employment—This document collects Name, SSN, DOB, POB, Citizenship, Responses to Criminal, Financial, Employment, Military status.

3. HUD Personal Identity Verification Sheet—This document collects Name, SSN, DOB, POB, Citizenship, Phone Number, Address, Email Address.

4. Data Facts (Vendor)—HUD collects PII associated with applicants' credit history through third party vendor to include: Name, Aliases, SSN (partial), DOB (partial), credit history; and Credit history information collected from TransUnion, Equifax, and Experian.

5. HUD Fair Credit Reporting Act—Collects applicant name, SSN, and signature for acknowledgement to collect Credit info. on this form.

6. General Services Administration (GSA) USAccess Criminal History Results—Collects information on applicants' national criminal history.

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) and to appropriate agencies, entities, and persons for disclosures compatible with the purpose for which the records in this system were collected as set forth by Appendix I—HUD's Routine Use Inventory Notice, 80 FR 81837 (December 31, 2015), all or a portion of the records or information contained in this system may be disclosed outside HUD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

2. To the Department of Justice when: (a) The agency or any component thereof; or (b) Any employee of the agency in his or her official capacity; (c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to represent the employee; or (d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records by DOJ is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

3. To the court or adjudicative body in proceedings when:

(a) The agency or any component thereof; (b) Any employee of the agency in his or her official capacity; (c) Any employee of the agency in his or her individual capacity where agency or the Department of Justice has agreed to

represent the employee; or (d) The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose that is compatible with the purpose for which the agency collected the records.

4. Except as noted on Forms SF–85, 85–P, and 86, when a record on its face, or in conjunction with other records, made to the appropriate public authority, whether Federal, foreign, State, local, or tribal, or otherwise, enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutorial responsibility of the receiving entity.

5. To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

6. To HUD contractors, grantees, or volunteers who have been engaged to assist the agency in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records to perform their activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

7. To any source or potential source from which information is requested during an investigation concerning the retention of an employee or other personnel action (other than hiring), or the retention of a security clearance, contract, grant, license, or other benefit, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

8. To a Federal, State, local, foreign, or tribal or other public authority the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative personnel or regulatory action.

9. To the news media or the public, information the disclosure of which would be in the public interest and which would not constitute an unwarranted invasion of personal privacy, consistent with Freedom of Information Act standards.

10. To a Federal, State, or local agency, or other appropriate entities or individuals, or through established liaison channels to selected foreign governments, in order to enable an intelligence agency to carry out its responsibilities under the National Security Act of 1947 as amended, the CIA Act of 1949 as amended, Executive Order 12333 or any successor order, applicable national security directives, or classified implementing procedures with 54836 **Federal Register**/Vol. 71, No. 181/Tuesday, September 19, 2006/ Notices approved by the Attorney General and promulgated pursuant to such statutes, orders or directives.

1. To appropriate agencies, entities, and persons when (1) HUD suspects or has confirmed that there has been a breach of the system of records, (2) HUD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, HUD (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 HUD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

2. To another Federal agency entity, when HUD determines that information from the system of records is reasonable necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Comprehensive electronic records are maintained by the Personnel Security Division and stored in the PerSIST electronic database. Access to the records is restricted to those with specific roles in the Personal Identity Verification (PIV) process. Retrieval of electronic records will require a system name or social security number query to produce records of an employee, contractor, student, intern, or volunteer.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Prior to decommissioning, existing records maintained in PSF will undergo a data quality review and migration to PerSIST. HUD's standard protocol for transmitting secure data is via a secure File Transfer Protocol (FTP). The FTP is a method of transferring data files from one computer to another over a network.

Comprehensive records are retained and disposed of in accordance with *General Records Schedule 5.6 items: 180,181* under *Disposition Authority DAA–GRS–2017–0006–0025,* approved by the National Archives and Records Administration(NARA). Records regarding individuals with security clearances and other clearances for access to Government facilities or to sensitive data, created to support initial favorable eligibility determinations, periodic reinvestigations, or to implement a continuous evaluation program will be destroyed 5 years after the employee or contractor relationship ends, however longer retention is authorized if required for business use.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

For Paper Records: Comprehensive paper records are maintained and locked in metal file cabinets and stored in secured rooms within HUD Headquarters, Personnel Security Division.

For Electronic Records: Comprehensive electronic records are maintained within the PerSIST system and stored on a cloud based software server and operating system that resides in a Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Management Act (FISMA) Moderate dedicated hosting environment.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

For Paper Records: Comprehensive paper records are kept in locked metal file cabinets in locked rooms in HUD Headquarters, in the Personnel Security Division which is the office responsible for suitability determinations. Access to the records is limited to those employees who have a need for them in the performance of their official duties.

For Electronic Records: Comprehensive electronic records are kept in the Personnel Security Division. Access to the records are restricted to those with specific roles in the Personal Identity Verification (PIV) process, requires access to background investigation forms to perform their

duties, and who have been given a password to access applicable file within the system including background investigation records. An electronic audit trail is maintained within system and reviewed periodically to identify and track authorized/unauthorized access. Persons given roles in the PIV process must complete training specific to their roles to ensure they are knowledgeable with regards to handling and safeguarding individually identifiable information.

For Electronic Records (cloud based): Comprehensive electronic records are secured and maintained on a cloud based software server and operating system that resides in Federal Risk and Authorization Management Program (FedRAMP) and Federal Information Security Management Act (FISMA) Moderate dedicated hosting environment. All data located in the cloud based server is firewalled and encrypted at rest and in transit. The security mechanisms for handing data at rest and in transit are in accordance with HUD encryption standards.

RECORD ACCESS PROCEDURES:

For information, assistance, or inquiry about records, contact John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139, U.S. Department of Housing and Urban Development, Washington, DC 20410–0001, telephone number 202–708–3054 (this is not a toll-free number). When seeking records about yourself from this system of records or any other Housing and Urban Development (HUD) system of records, your request must conform with the Privacy Act regulations set forth in 24 CFR part 16. You must first verify your identity, meaning that you must provide your full name, address, and date and place of birth. You must sign your request, and your 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. In addition, your request should:

a. Explain why you believe HUD would have information on you.

b. Identify which Office of HUD you believe has the records about you.

c. Specify when you believe the records would have been created.

d. Provide any other information that will help the Freedom of Information Act (FOIA) staff determine which HUD office may have responsive records.

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying their agreement for you to access their records. Without the above information, the HUD FOIA Office may not conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with regulations.

CONTESTING RECORD PROCEDURES:

The Department's rules for contesting contents of records and appealing initial denials appear in 24 CFR part 16, Procedures for Inquiries. Additional assistance may be obtained by contacting John Bravacos, Senior Agency Official for Privacy, at 451 7th Street SW, Room 10139; U.S. Department of Housing and Urban Development, Washington, DC 20410–0001, or the HUD Departmental Privacy Appeals Officers, Office of General Counsel, U.S. Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410–0001.

NOTIFICATION PROCEDURES:

Individuals seeking notification of and access to any record contained in this system of records, or seeking to contest its content, may submit a request in writing to the component's FOIA Officer, whose contact information can be found at *http://www.hud.gov/foia* under ''contact.'' 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, HUD, 451 Seventh Street SW, Room 10139, Washington, DC 20410.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

The PerSIST system replaces the legacy Personnel Security Files 2006.

Dated: April 19, 2018.

John Bravacos,

Senior Agency Official for Privacy.

[FR Doc. 2018–10103 Filed 5–10–18; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[PPWOIRADA1;PRCRFRFR6.XZ0000; PR.RIRAD1801.00.1; OMB Control Number 1093–0006.]

Agency Information Collection Activities; Natural and Cultural Resources Agencies Customer Relationship Management

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary, Department of the Interior are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before July 10, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Marta Kelly, National Park Service, U.S. Department of the Interior, 1849 C Street, NW, MS 2266–MIB, Washington, DC 20240, fax 202–354–1815, or by email to *Marta_Kelly@nps.gov.* Please reference OMB Control Number 1093–0006 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Marta Kelly, National Park Service, U.S. Department of the Interior, 1849 C Street NW, MS 2266–MIB, Washington, DC 20240, fax 202–354–2825, or by email to *Marta_Kelly@nps.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on renew of the ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Office of the Secretary, Department of the Interior; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Office of the Secretary, Department of the Interior enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Office of the Secretary, Department of the Interior minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The information collection under OMB Control number 1093–0006 received approval from OMB on August 04, 2015. This approval will expire on 8/31/2018 and we are now requesting comments as part of the standard renew and update process. This collection was formally known as Volunteer Partnership Management and Volunteer Application and Agreement for Natural Cultural Resources.

The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

Federal natural and cultural resources management agencies are authorized to manage volunteers, youth programs, and partnerships to recruit, train, and accept the services of citizens to aid in disaster response, interpretive functions, visitor services, conservation measures and development, research and development, recreation, and or other activities as allowed by an agency's policy and regulations. Providing, collecting and exchanging written and electronic information is required from potential and selected program participants of all ages so they can access opportunities and benefits provided by agencies guidelines. Those under the age of 18 years must have written consent from a parent or guardian.

The customer relationship management web based portals are the agencies response to meeting citizens' requests for improved digital customer services to access and apply for engagement opportunities. Secure under one security platform parameter, the portals provide for prospective and current program participants to establish an account for electronic submission of program applications and to obtain status of applications, enrollments, benefits, and requirements. Additionally, citizens have the option of using self-service features to report hours, apply for opportunities, or register for program benefits such as America the Beautiful Pass, Public Land Corps register or Service Learning verification. This collection includes the modernization of electronic process so citizens maintain portal accounts with single program application which can be reused to apply for all interested opportunities verse requiring a program participants to electronically complete the application anew for each opportunity they wish to be considered. This specifically minimizes the burden on this collection on the respondents. While electronic records provides a means to streamline data collection and allow citizen access to track benefits and control the sharing of their data, the participating agencies may also provide an accessible paper version of the volunteer forms.

Participating Agencies are:

Department of Agriculture: U.S. Forest Service, and Natural Resources Conservation Service;

Department of the Interior: All DOI offices and units including National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, Bureau of Reclamation, Bureau of Indian Affairs, Office of Surface Mining Reclamation and Enforcement, and U.S. Geological Survey.

Department of Defense: U.S. Army Corps of Engineers;

Department of Commerce: National Oceanic and Atmospheric Administration—Office of National Marine Sanctuaries.

Forms

OF–301 Volunteer Application: Individuals interested in volunteering may access the individual agency websites, and/or contact agencies to request a Volunteer Application (OF–301) or complete an on-line application submission on *volunteer.gov* on submission. Applicants provide name, address, telephone number, date of birth, preferred work categories, interests, citizenship status, available dates, preferred location, indication of physical limitations, and lodging preferences. Information collected using this form or *volunteer.gov* assists agency volunteer coordinators and other personnel in matching volunteers with agency opportunities appropriate for an applicant's skills and physical condition and availability. Signature of a parent or guardian is mandatory for applicants under 18 years of age.

OF–301A Volunteer Service Agreement: This form is used by participating resource agencies to document agreements for volunteer services between a Federal agency and individual or group volunteers, including international volunteers. Signature of parent or guardian is mandatory for applicants under 18 years of age. The agreement form will now be available for processing on volunteer.gov for the first time, this on-line this form is generated from the application and position description to minimize impact to respondents. Paper forms and electronic PDF must however be completed for each opportunity.

OF–301B Volunteer Group Sign-up: This form is used by participating resource agencies to document awareness and understanding by individuals in groups about the volunteer activities between a Federal agency and a partner organization with group participants. Signature of parent or guardian is mandatory for applicants under 18 years of age.

Stewards Engagement Portal (this was formally known as the Youth Partnership Tracking Portal): This portal has a self-registration feature that allows program participants from volunteer, youth, and partnerships to register with information that would be used to automate matching stewardship opportunities such as apprenticeships, youth programs, veterans' events, and other special engagement programs. Information required to establish an account is preference for location, name, email, qualifying factors, and training. Once self-registered, the youth and young adult programs participants authorized under the 16 U.S.C. 1722 et. seq., Public Lands Corps (PLC) Act may be required to report additional details for public land corps status such as the agency work for, partner organization, project dates, where the work was completed, and total hours worked on the specific project. This information is used by the system to match the individuals with most applicable opportunities. The steward engagement portal is under redesign and will incorporate a feedback loop for respondents to rate quality of customer service and opportunities.

The Partnerships Module collects information from various partnership and volunteer organizations which are under national agreements to manage services and programs on public lands for citizens and provides an annual summary of their activities.

The Cooperating Association Module collects information from not-for-profit public lands partners under national agreements to manage bookstores and sales items with federal agencies.

This request for comments on the information collection is being published by the Office of the Secretary, Department of the Interior and includes the use of common forms that can be leveraged by other Federal Agencies. The burden estimates reflected in this notice is only for the Department of the Interior. Other federal Agencies wishing to use the common forms must submit

their own burden estimates and provide notice to the public accordingly.

Title of Collection: Natural and Cultural Resources Agencies Customer Relationship Management.

OMB Control Number: 1093–0006.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Potential and selected volunteers; youth program participants, veterans, prospective job applicants, cooperating associations, and partner organizations.

Total Estimated Number of Annual Respondents: 36,333.

Total Estimated Number of Annual Responses: 867,696.

Estimated Completion Time per Response: Total annual reporting per response: 5–60 minutes depending on the function being performed.

Total Estimated Number of Annual Burden Hours: 80,411.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Typically once per year but could be as frequently as 26 times per year for time and expense reporting.

Total Estimated Annual Nonhour Burden Cost: There are no non-hour cost burdens associated with this information collection.

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

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Jeffrey Parrillo,

Departmental Information Collection Clearance Officer.

[FR Doc. 2018–10026 Filed 5–10–18; 8:45 am]

BILLING CODE 4310–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON02000.L51010000.PN0000.LVRWC16C8700.16X]

Notice of Availability of the Draft Environmental Impact Statement for the Proposed Blue Valley Land Exchange, Grand and Summit Counties, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the Bureau of Land Management (BLM) has prepared a Draft Environmental Impact Statement (EIS) for the Blue Valley Land Exchange and by this notice is announcing the opening of the comment period.

DATES: To ensure comments will be considered, the BLM must receive written comments on the Blue Valley Land Exchange Draft EIS within 45 days following the date the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**. The BLM is hosting two public open house meetings to provide information, answer questions, and accept written comments about this proposal in Silverthorne June 4, 4–7 p.m., at the Summit County Library, 651 Center Circle, and June 6, 4–7 p.m., in Kremmling, at the Grand County Fairgrounds Extension Office, 210 11th St.

ADDRESSES: You may submit comments related to the Blue Valley Land Exchange by any of the following methods:

- *Website: https://go.usa.gov/xnBJ5.*
- *Email: kfo_webmail@blm.gov.*
- *Fax:* 970–724–3066.
- *Mail:* Kremmling Field Office, Bureau of Land Management, P.O. Box 68, Kremmling, CO 80549.

Copies of the Blue Valley Land Exchange Draft EIS are available in the Kremmling Field Office at 2103 Park Avenue, Kremmling, CO 80459, and online at *https://go.usa.gov/xnBJ5.*

FOR FURTHER INFORMATION CONTACT: Annie Sperandio, Blue Valley Land Exchange Project Manager; telephone 970–724–3000; address Kremmling Field Office (see above); email *kfo_webmail@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM proposes to exchange certain Federal lands for properties owned by Galloway, Inc., the owners of the Blue Valley Ranch. The land exchange proposal would convey approximately 1,489 acres of Federal lands managed by the BLM in Grand County, Colorado, to Blue Valley Ranch in exchange for approximately 1,830 acres of non-Federal lands in Summit and Grand Counties, Colorado. Pursuant to Section 206 of the Federal Land Policy and Management Act of 1976, as amended, the proposed land exchange must be determined to be in the public's interest, and appraisals of the Federal and non-Federal parcels must show that the exchange parcels are equal in value. The Federal and non-Federal lands are located within the BLM's Kremmling Field Office and the White River National Forest.

The Draft EIS describes and analyzes the Proposed Action (BLM's preferred alternative), as well as the No Action alternative. The BLM's preferred alternative would convey approximately 1,489 acres of Federal lands managed by the BLM in Grand County, Colorado, to Blue Valley Ranch in exchange for approximately 1,830 acres of non-Federal lands in Summit and Grand Counties, Colorado. If the BLM moves forward with the exchange, this project would support the goals of Secretarial Orders 3347, 3356 and 3362 by increasing access for recreation and hunting, and increasing big game winter range on public lands.

Issues identified by the public during scoping included changes to public fishing access, perceived changes to float boating on the Blue River, concerns about changes to public access for hunting, changes to wildlife management and habitat, changes to the availability of Federal minerals for development, transfer of historic water rights and issues common for all proposed land exchanges such as concerns about large landowners realizing a benefit from the exchange. These issues are addressed in the analysis of the Draft EIS. The BLM would manage lands acquired through the land exchange in accordance with applicable laws and regulations, as well as the Kremmling Field Office Resource Management Plan, as amended. The White River National Forest would manage approximately 300 acres of lands acquired under the White River National Forest Land and Resource Management Plan. The Blue Valley Ranch would manage lands acquired in accordance with applicable State, county, and local laws and ordinances.

The BLM sought public participation through a scoping period that occurred before the preparation of the Draft EIS, which assisted the BLM in identifying issues to be addressed in the Draft EIS for the proposed land exchange.

Please note that public comments and information submitted during the Draft EIS comment period, including names, street addresses, and email addresses of persons who submit comments, will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except on holidays.

Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6.

Gregory P. Shoop,

Acting BLM Colorado State Director.

[FR Doc. 2018–10061 Filed 5–10–18; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A0067F 178S180110; S2D2D SS08011000 SX066A00 33F 17XS501520; OMB Control Number 1029–0061]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Permanent Regulatory Program—Small Operator Assistance Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE) are proposing to renew an information collection for the Permanent Regulatory Program—Small Operator Assistance Program (SOAP).

DATES: Interested persons are invited to submit comments on or before June 11, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov;* or via facsimile to (202) 395–5806. Please provide a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1849 C. Street NW, Mail Stop 4559, Washington, DC 20240; or by email to *jtrelease@osmre.gov.* Please reference OMB Control Number 1029–0112 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact John Trelease by email at *jtrelease@osmre.gov,* or by telephone at (202) 208–2783. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provides the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on February 8, 2018 (83 FR 5644). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of OSMRE; (2) is the estimate of burden accurate; (3) how might OSMRE enhance the quality, utility, and clarity of the information to be collected; and (4) how might OSMRE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Title: 30 CFR part 795—Permanent Regulatory Program—Small Operator Assistance Program.

OMB Control Number: 1029–0061.

Abstract: This information collection requirement is needed to provide assistance to qualified small mine operators under 30 U.S.C. 1257. The information requested will provide the regulatory authority with data to determine the eligibility of the applicant and the capability and expertise of laboratories to perform required tasks.

Form Number: FS–6.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Small operators, laboratories, and State regulatory authorities.

Total Estimated Number of Annual Respondents: 4 (1 by a small operator, 2 by a State regulatory authority, 1 by a laboratory).

Total Estimated Number of Annual Responses: 4.

Estimated Completion Time per Response: 18 hours for a small operator, 4 hours for State review, 70 hours for State solicitation and award to a laboratory, 1 hour for laboratory to re-qualify.

Total Estimated Number of Annual Burden Hours: 93 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $0.

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

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq).

John A. Trelease,

Acting Chief, Division of Regulatory Support.

[FR Doc. 2018–10057 Filed 5–10–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Movable Barrier Operator Systems and Components Thereof, DN 3315;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection

during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of The Chamberlain Group, Inc. on May 4, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain movable operator systems and components thereof. The complaint names as respondents: Nortek Security & Control, LLC f/k/a Linear, LLC, of Carlsbad, CA; Nortek, Inc. of Providence, RI; and GTO Access Systems, LLC f/k/a Gates That Open, LLC of Tallahassee, FL. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3315) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 7, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–10036 Filed 5–10–18; 8:45 am]

BILLING CODE 7020–02–P

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[USITC SE–18–024]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 17, 2018 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW, Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None.
2. Minutes.
3. Ratification List.
4. Vote in Inv. Nos. 731–TA–1362–1367 (Final) (Cold-Drawn Mechanical Tubing from China, Germany, India, Italy, Korea, and Switzerland). The Commission is currently scheduled to complete and file its determinations and

views of the Commission by May 31, 2018.

5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 9, 2018.

William Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2018–10200 Filed 5–9–18; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Infotainment Systems, Components Thereof, and Automobiles Containing the Same, DN 3316*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Broadcom Corporation on May 7, 2018. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain infotainment systems, components thereof, and automobiles containing the same. The complaint names as respondents: Toyota Motor Corporation of Japan; Toyota Motor North America, Inc. of Plano, TX; Toyota Motor Sales, U.S.A., Inc. of Plano, TX; Toyota Motor Engineering & Manufacturing North America, Inc. of Plano, TX; Toyota Motor Manufacturing, Indiana, Inc. of Princeton, IN; Toyota Motor Manufacturing, Kentucky, Inc. of Erlanger, KY; Toyota Motor Manufacturing, Mississippi, Inc. of Tupelo, MS; Toyota Motor Manufacturing, Texas, Inc. of San Antonio, TX; Panasonic Corporation of Japan; Panasonic Corporation of North America of Newark, NJ; Denso Ten Limited of Japan; Denso Ten America Limited of Torrance, CA; Renesas Electronics Corporation of Japan; Renesas Electronics America, Inc. of Milpitas, CA; and Japan Radio Corporation of Japan. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3316) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: May 7, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–10037 Filed 5–10–18; 8:45 am]

BILLING CODE 7020–02–P

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On May 7, 2018, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Massachusetts in the lawsuit entitled *United States of America* v. *Challenge Fisheries LLC et al.,* Civil Action No. 1:18–cv–10899.

The Complaint in this Clean Water Act case was filed against the defendants concurrently with the lodging of the proposed Consent Decree. The Complaint alleges that the defendants, Challenge Fisheries LLC, Charles Quinn Jr., Quinn Fisheries Inc., and Charles Quinn III, are civilly liable for violations of Section 311 of the Clean Water Act (''CWA''), 33 U.S.C. 1321. The Complaint alleges that the companies and individuals are liable for violations related to the commercial fishing vessel *Challenge's* operations in New Bedford Harbor and in coastal waters off of southeastern New England. The Complaint addresses discharges of oily bilge waste from the vessel while in port and at sea harvesting scallops, and the release of approximately 100 barrels of fuel oil in connection with the illegal overboard pumping of oily bilge water in August 2017. The Complaint also includes a Clean Water Act claim for violations of the Coast Guard's pollution control regulation related to the defendants' failure to provide sufficient capacity to retain all oily bilge water onboard the vessel. The United States seeks civil penalties and injunctive relief to deter future violations by the defendants and others in the industry.

Under the proposed Consent Decree, the defendants will pay a total of $414,000 as civil penalties and perform corrective measures across a fleet of five commercial fishing vessels. The defendants will be required, among other things, to repair the vessels to reduce the generation of oily bilge water, operate within the vessels' capacity to retain oily bilge for the full length of planned voyages, provide crew and management training on the proper handling of oily wastes, document all oil and oily waste transfers on and off of the vessels, including documenting proper disposal of engine room bilge water at a shore reception facility, and submit compliance reports.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Challenge Fisheries LLC et al.,* D.J. Ref. No. 90–5–1–1–11901. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted by either email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Acting Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $13.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–10047 Filed 5–10–18; 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 May 3, 2018, the Department of Justice lodged a Consent Decree with defendant Buckingham County Board of Supervisors on behalf of Buckingham County, a political sub-division of the Commonwealth of Virginia (''Buckingham County'') in the United States District Court for the Western District of Virginia. The Consent Decree resolves a claim under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607, for past and future response costs incurred in connection with the release of hazardous substances at the Buckingham County Landfill Superfund Site (''Site''), located in Dillwyn, Buckingham County, Virginia. The Complaint filed concurrently with the Consent Decree alleges that Buckingham County, who is the current owner of the Site, is liable for all costs of removal or remedial action incurred by the United States Government. The proposed Consent Decree obligates Buckingham County to reimburse $125,000 of the United States' past response costs.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Buckingham County Board of Supervisors on behalf of Buckingham County, a political sub-division of the Commonwealth of Virginia,* Civil Action No. 6:18–cv–00057 (W.D. Va.), DOJ number 90–11–2–07971/3. All comments must be submitted no later than 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	Acting 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 $7.00 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $4.25.

Susan M. Akers,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2018–10092 Filed 5–10–18; 8:45 am]

BILLING CODE 4410–15–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

DATE AND TIME: The Legal Services Corporation's Board of Directors will meet telephonically on Thursday, May 24, 2018. The meeting will commence at 3:45 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW, Washington DC 20007.

PUBLIC OBSERVATION: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

CALL-IN DIRECTIONS FOR OPEN SESSIONS:

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone. Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the Chair may solicit comments from the public.

STATUS OF MEETINGS: Open.

MATTERS TO BE CONSIDERED:

Board of Directors

1. Approval of agenda
2. Consider and act on the Board of Directors' transmittal to accompany the Inspector General's Semiannual Report to Congress for the period of October 1, 2017 through March 31, 2018
3. Public comment
4. Consider and act on other business
5. Consider and act on adjournment of meeting

CONTACT PERSON FOR INFORMATION: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

ACCESSIBILITY: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals needing other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov,* at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 8, 2018.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs and General Counsel.

[FR Doc. 2018–10176 Filed 5–9–18; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Submission for OMB Review, Comment Request, Proposed Collection: IMLS Grants to States Program ''Five-Year State Plan Guidelines for State Library Administrative Agencies''

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB review, comment request.

SUMMARY: The Institute of Museum and Library Services announces the following information collection has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. This notice proposes the clearance of the IMLS Grants to States Program ''Five-Year State Plan Guidelines for State Library Administrative Agencies''.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Comments must be submitted to the office listed in the **FOR FURTHER INFORMATION CONTACT** section below on or before June 8, 2018.

OMB is particularly interested in comments that help the agency to:

- 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).

ADDRESSES: Comments should be sent to Office of Information and Regulatory Affairs, *Attn.:* OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395–7316.

FOR FURTHER INFORMATION CONTACT: Dr. Sandra Webb, Director of Grant Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Webb can be reached by Telephone: 202–653–4718 Fax: 202–

653–4608, or by email at *swebb@imls.gov,* or by teletype (TTY/TDD) for persons with hearing difficulty at 202–653–4614.

SUPPLEMENTARY INFORMATION: The Institute of Museum and Library Services is the primary source of federal support for the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. Our vision is a nation where museums and libraries work together to transform the lives of individuals and communities. To learn more, visit *www.imls.gov.*

Current Actions: This notice proposes the clearance of the IMLS Grants to States Program ''Five-Year State Plan Guidelines for State Library Administrative Agencies''. The 60-day Notice for the ''Notice of Proposed Information Collection Requests: IMLS Grants to States Program ''Five-Year State Plan Guidelines for State Library Administrative Agencies'' was published in the **Federal Register** on March 1, 2018 (83 FR 8902). The agency has taken into consideration the one comment that was received under this notice.

The Grants to States program is the largest source of Federal funding support for library services in the U.S. Using a population based formula, more than $150 million is distributed among the State Library Administrative Agencies (SLAAs) every year. SLAAs are official agencies charged by law with the extension and development of library services, and they are located in:

- Each of the 50 States of the United States, and the District of Columbia;
- The Territories (the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and
- The Freely Associated States (the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau).

Each year, over 1,500 Grants to States projects support the purposes and priorities outlined in the Library Services and Technology Act (LSTA). (See 20 U.S.C. 9121 *et seq.*) SLAAs may use the funds to support statewide initiatives and services, and they may also distribute the funds through competitive subawards (subgrants or cooperative agreements) to public, academic, research, school, or special libraries or library consortia (for-profit and Federal libraries are not eligible). Each SLAA must submit a plan that details library services goals for a five-year period. (20 U.S.C. 9134). SLAAs must also conduct a five-year evaluation of library services based on that plan. These plans and evaluations are the foundation for improving practice and informing policy. Each SLAA receives IMLS funding to support the five year period through a series of overlapping, two year grant awards.

Agency: Institute of Museum and Library Services.

Title: IMLS Five-Year State Plan Guidelines for State Library Administrative Agencies.

OMB Number: 3137–0029.

Frequency: Once every five years.

Affected Public: State and Territory Library Administrative Agencies.

Number of Respondents: 59.

Estimated Average Burden per Response: 90 hours.

Estimated Total Burden: 5310 hours.

Total Annualized capital/startup costs: n/a.

Total Five Year Costs: $146,928.

Dated: May 8, 2018.

Kim Miller,

Grants Management Specialist, Office of Grants Policy and Management.

[FR Doc. 2018–10045 Filed 5–10–18; 8:45 am]

BILLING CODE 7036–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS): Meeting of the ACRS Subcommittee on Power Uprates; Notice of Meeting

The ACRS Subcommittee on Power Uprates will hold a meeting on May 16, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Wednesday, May 16, 2018—8:30 a.m. Until 5:00 p.m.

The Subcommittee will review the Brunswick Steam Electric Plant Units 1 and 2 Maximum Extended Load Line Limit Analysis Plus license amendment request and associated NRC staff safety evaluation. The Subcommittee will hear presentations by and hold discussions with the NRC staff, Brunswick and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Weidong Wang (Telephone 301–415–6279 or Email: *Weidong.Wang@nrc.gov*) one day prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702) to be escorted to the meeting room.

Dated: May 7, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–09996 Filed 5–10–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Digital I&C Systems; Notice of Meeting

The ACRS Subcommittee on Digital I&C Systems will hold a meeting on May 17, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meeting will be open to public attendance. The agenda for the subject meeting shall be as follows: Wednesday, May 17, 2018–8:30 a.m. until 5:00 p.m.

The Subcommittee will have a meeting on Digital I&C ISG–06, ''Task Working Group #6 Licensing Process'' and a briefing on the status of the NRC digital instrumentation & control common cause failure activities for the NRC staff's review of license amendments supporting installation of DI&C equipment in accordance with current licensing processes. The Subcommittee will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Christina Antonescu (Telephone 301–415–6792 or Email: *Christina.Antonescu@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702) to be escorted to the meeting room.

Dated: May 7, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–10018 Filed 5–10–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Nuscale; Notice of Meeting

The ACRS Subcommittee on NuScale will hold a meeting on May 15, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meetings will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Monday, May 15, 2018—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review two NuScale topical reports: TR–0616–48793, ''NuScale Analysis Codes and Methods Qualification,'' and TR–0116–21012, ''NuScale Power Critical Heat Flux Correlation NSP2.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Zena Abdullahi (Telephone 301–415–8716 or Email: *Zena.Abdullahi@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702 or 301–415–8066) to be escorted to the meeting room.

Dated: May 7, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–09997 Filed 5–10–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Thermal-Hydraulics Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulics Phenomena will hold a meeting on May 15, 2018, at 11545

Rockville Pike, Room T–2B3, Rockville, Maryland 20852.

The meetings will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meeting shall be as follows:

Monday, May 15, 2018—8:30 a.m. Until 12:00 p.m.

The Subcommittee will have a briefing with NRC's Office of Nuclear Regulatory Research on the Confirmatory Analysis supporting the Brunswick Steam Electric Plant Maximum Extended Load Line Limit Analysis Plus (MELLLA+) submittal. The Subcommittee will hear presentations by and hold discussions with the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Zena Abdullahi (Telephone 301–415–8716 or Email: *Zena.Abdullahi@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702 or 301–415–8066) to be escorted to the meeting room.

Dated: May 7, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–09999 Filed 5–10–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Regulatory Policies & Practices; Notice of Meeting

The ACRS Subcommittee on Regulatory Policies and Practices will hold a meeting on May 15, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

This meeting will be open to public attendance. The agenda for the subject meeting shall be as follows:

Tuesday, May 15, 2018—8:30 a.m. Until 12:00 p.m.

The Subcommittee will review selected sections (Geography & Demography (2.1); Nearby Industrial, Transportation and Military Facilities (2.2); Aircraft Hazards (3.5.1.6); and Accident Analysis (15.1)) of the Early Site Permit for Clinch River and will hear presentations by and hold discussions with the NRC staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Quynh Nguyen (Telephone 301–415–5844 or Email *Quynh.Nguyen@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland 20852. After registering with Security, please contact Mr. Theron Brown (Telephone 301–415–6702) to be escorted to the meeting room.

Dated: May 7, 2018.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2018–09998 Filed 5–10–18; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No 34–83181; File No. SR–FINRA–2018–018]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Statutory Disqualification Application Fees

May 7, 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 April 30, 2018, Financial Industry Regulatory

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend Section 12 to Schedule A of the FINRA By-Laws, regarding statutory disqualification application fees.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FINRA is proposing to increase the fee to file an application for an eligibility proceeding under the Rule 9520 Series (Eligibility Proceedings) for the first time since 1994.[5] Pursuant to Article III, Section 3 of the FINRA By-Laws, a member is ineligible for continuance in membership where the member associates with a person who is subject to a ''statutory disqualification'' (''SD'') [6] or the member itself is subject to an SD. The Rule 9520 Series sets forth procedures for a person to become or remain associated with a member, notwithstanding the existence of an SD, and for a current member or person associated with a member to obtain relief from the eligibility or qualification requirements of the FINRA By-Laws and rules. A member or person associated with a member may request relief from the eligibility requirements by filing an application with FINRA (''SD Application'').[7]

Currently, Section 12 to Schedule A of the By-Laws (Application and Annual Fee for Member Firms with Statutorily Disqualified Individuals) provides that a member must pay to FINRA a fee of $1,500 to file an SD Application (''SD Application Fee'') when it seeks to employ or continue to employ as an associated person any individual who is subject to an SD (Form MC–400). In contrast, FINRA currently does not require a member to pay a fee to file an SD Application where the member itself is subject to an SD (Form MC–400A). Since 1994, FINRA has not made any adjustments to the SD Application Fee.

SD Applications take significant staff time and resources to research and review, as each application is assessed on a case-by-case basis. While the number of SD Applications has remained relatively constant and the SD Application Fee has remained unchanged, the complexity of the applications and the time needed to investigate them through, for example, public records searches, discussions with federal and state regulators, and contacts with state and federal courts, has increased. Moreover, even in 1994, the SD Application Fee of $1,500 was insufficient to cover the average costs associated with the processing and review of SD Applications.[8]

In order to offset more of the costs associated with FINRA staff's thorough assessment of SD Applications, the proposed rule change would amend Section 12 to Schedule A of the FINRA By-Laws by increasing from $1,500 to $5,000 the SD Application Fee for filing a Form MC–400. In addition, the proposed rule change would impose, for the first time, an SD Application Fee of $5,000 on SD Applications for filing a Form MC–400A where the member itself is the subject of the SD. Specifically, Section 12 to Schedule A of the FINRA By-Laws would be revised to require any member firm, or applicant for membership under NASD Rule 1013 that is subject to a disqualification as set forth in Article III, Section 4 of the By-Laws of the Corporation that seeks to enter, or be continued in, membership to pay FINRA a fee of $5,000.

FINRA has filed the proposed rule change for immediate effectiveness. The implementation date will be May 30, 2018.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[9] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change more equitably allocates among member firms the costs incurred for time and resources needed to thoroughly review and assess SD Applications.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA has undertaken an economic impact assessment, as set forth below, to analyze the regulatory need for the proposed rulemaking and its potential economic impacts, including anticipated costs and benefits.

1. Economic Impact Assessment

a. Regulatory Need

As discussed above, SD Applications take significant FINRA staff time and resources to research and review; due to the unique facts and circumstances of each SD matter, each application is assessed on a case-by-case basis. The current SD Application Fee for Form MC–400 applications is insufficient to cover the costs associated with the review of these applications. Further, FINRA currently does not require a member firm to pay a fee for the review of Form MC–400A applications, but FINRA still must commit resources to

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 34897 (October 26, 1994), 59 FR 54648 (November 1, 1994) (Order Approving File No. SR–NASD–94–57) (increasing the SD Application Fee from $1,000 to $1,500).

[6] Article III, Section 4 of the FINRA By-Laws incorporates the definition of ''statutory disqualification'' under Section 3(a)(39) of the Act.

[7] Rule 9520 Series sets forth eligibility proceedings under which FINRA may allow a member, person associated with a member, potential member, or potential associated person subject to an SD to enter or remain in the securities industry.

[8] *See supra* note 5, 59 FR at 54649 (noting that the average costs associated with the processing and review of SD Applications was more than $1,500 in 1994).

[9] 15 U.S.C. 78*o*–3(b)(5).

review these applications. As a result, the current SD Application Fee is even less sufficient to cover the current costs associated with the staff's assessment of all SD Applications, requiring a significant portion of costs to conduct these assessments to be borne indirectly by non-SD applicant member firms. The proposed rule change serves as an economic transfer of some of the costs associated with the review from unrelated parties to the immediate parties seeking the relief.

b. Economic Baseline

The economic baseline used to evaluate the impact of the proposed amendments is the current regulatory framework. This baseline serves as the primary point of comparison for assessing the economic impacts, including the incremental benefits and costs of the proposed rule change. FINRA reviewed the SD Applications that were filed during 2013–2016 (''review period''). Based on this review, FINRA estimates that there were 167 SD Applications filed by 135 member firms during the review period. Of the 167 SD Applications, FINRA identified 122 Form MC–400 applications and 45 Form MC–400A applications.[10] FINRA further estimates that approximately 50% of these applications were filed by small firms, 17% by mid-sized firms and 33% by large firms.[11]

c. Economic Impacts

FINRA examined the time required of its staff to review all SD Applications filed during the review period and the reviewing staff's compensation associated with the review of these SD Applications. Based on that analysis, FINRA determined that the current SD Application Fee of $1,500 for Form MC–400 applications is insufficient to cover the costs associated with FINRA's review of such applications and even less sufficient to cover the costs associated with FINRA's review of all SD Applications.

The impact of this proposal would be to help shift more of the costs associated with reviewing SD Applications to the member firms that file Form MC–400 or Form MC–400A applications. As noted above, FINRA identified 122 Form MC–400 and 45 Form MC–400A applications during the review period. Based on the proposed increase in the SD Application Fee for both Form MC–400 and Form MC–400A applications to $5,000, FINRA estimates that the total cost to all SD applicants would increase by $163,000 on average each year, if applications remain at their historical levels. For the set of member firms that submitted SD Applications during the review period, the proposed fee increase would have led to an annual increased cost of $3,500–$13,500 per firm, with a median increased cost of $3,500 per member firm.[12]

Shifting more of the burden of the costs associated with the review of SD Applications to the SD applicants also may affect their behavior. For instance, increasing the SD Application Fee may dissuade some member firms from seeking to employ or continuing to employ statutorily disqualified individuals. The increased fees also may cause some member firms to be more selective in instances where they might decide to employ such individuals. In general, some member firms that today may submit an SD Application at little or no cost, may determine that it is no longer in their best interest to do so.

These impacts would likely be higher for smaller firms, cash constrained firms, and firms that anticipate that the likelihood of the application being accepted is low ex ante. Any reduction in the number of SD Applications would lead to less FINRA staff time and resources spent on the review of SD Applications, decreasing the costs associated with the review of such applications and further reducing the aggregate economic transfer to SD applicants.

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) of the Act[13] and paragraph (f)(2) of Rule 19b–4 thereunder.[14] 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–FINRA–2018–018 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2018–018. 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

[10] Approximately 84% of the filing member firms submitted one SD Application, whereas the remaining 16% of the filing member firms submitted two or more SD Applications during the review period. Further, the total number of SD Applications for the review period excludes 52 MC–400A applications filed in 2015 and 12 in 2016 in connection with the SEC's Municipalities Continuing Disclosure Cooperation (MCDC) Initiative. Applications filed in connection with the MCDC Initiative are excluded from the calculation for the review period because they were the result of an industry-wide settlement and, as such, would disproportionately impact the review numbers outside the normal course. *See https://www.sec.gov/divisions/enforce/municipalities-continuing-disclosure-cooperation-initiative.shtml.*

[11] Based on FINRA By-Laws, Article I (Definitions), member firms with 150 or fewer registered persons are classified as small, member firms with 151–499 registered persons are classified as mid-size, and member firms with 500 or more registered persons are classified as large.

[12] The incremental costs are calculated on an annual, per firm basis. For each member firm submitting a Form MC–400 or Form MC–400A application, FINRA assigned an incremental cost of $3,500 for each Form MC–400 application filed and $5,000 for each Form MC–400A application filed in that year. The range represents the total aggregate incremental cost per submitting firm, per year. Thus, $3,500 represents the cost of a member firm that submitted only one Form MC–400 in a given year and $13,500 reflects the cost of a member firm that submitted two Form MC–400A applications and one Form MC–400 application in that year.

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(2).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FINRA–2018–018 and should be submitted on or before June 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo Aleman,

Assistant Secretary.

[FR Doc. 2018–10039 Filed 5–10–18; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15512 and #15513; Indiana Disaster Number IN–00062]

Presidential Declaration of a Major Disaster for the State of Indiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Indiana (FEMA–4363–DR), dated 05/05/2018.

Incident: Severe Storms and Flooding.

Incident Period: 02/14/2018 through 03/04/2018.

DATES: Issued on 05/05/2018.

Physical Loan Application Deadline Date: 07/05/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/05/2019.

ADDRESS: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/05/2018, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Carroll, Clark, Elkhart, Floyd, Harrison, Jefferson, Lake, Marshall, St Joseph

Contiguous Counties (Economic Injury Loans Only):

Indiana: Cass, Clinton, Crawford, Fulton, Howard, Jasper, Jennings, Kosciusko, La Porte, Lagrange, Newton, Noble, Porter, Pulaski, Ripley, Scott, Starke, Switzerland, Tippecanoe, Washington, White

Illinois: Cook, Kankakee, Will

Kentucky: Carroll, Hardin, Jefferson, Meade, Oldham, Trimble

Michigan: Berrien, Cass, Saint Joseph

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.625
Homeowners without Credit Available Elsewhere	1.813
Businesses with Credit Available Elsewhere	7.160
Businesses without Credit Available Elsewhere	3.580
Non-Profit Organizations with Credit Available Elsewhere	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.580
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155126 and for economic injury is 155130.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–10031 Filed 5–10–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

National Small Business Development Centers Advisory Board; Meeting

AGENCY: Small Business Administration.

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time and agenda for the May 2018 meeting of the Federal Advisory Committee for the Small Business Development Centers Program. The meeting will be open to the public; however, advance notice of attendance is required.

DATES: Tuesday, May 15, 2018 1:00 p.m. EST—Teleconference.

ADDRESSES: The Tuesday, May 15, 2018 meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Anne Reim, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416; *anne.reim@sba.gov;* 202–205–9565.

If anyone wishes to be a listening participant or would like to request accommodations, please contact Anne Reim at the information above.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), the SBA announces the meetings of the National SBDC Advisory Board. This Board provides advice and counsel to the SBA Administrator and Associate Administrator for Small Business Development Centers.

Purpose

The purpose of the meeting is to discuss the following issues pertaining to the SBDC Program:

- SBA Update
- Annual Meetings
- Board Assignments
- Member Roundtable

John Woodard,

White House Liaison.

[FR Doc. 2018–10072 Filed 5–10–18; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15514 and #15515; Indiana Disaster Number IN–00063]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Indiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–4363–DR), dated 05/05/2018.

Incident: Severe Storms and Flooding.

Incident Period: 02/14/2018 through 03/04/2018.

DATES: Issued on 05/05/2018.

Physical Loan Application Deadline Date: 07/05/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/05/2019.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 05/05/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Benton, Clark, Crawford, Dearborn, Elkhart, Floyd, Fulton, Gibson, Harrison, Jasper, Jefferson, La Porte, Marshall, Newton, Ohio, Perry, Porter, Spencer, St Joseph, Starke, Switzerland, Vanderburgh, Vermillion, Wabash, Warren, Warrick, White.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155146 and for economic injury is 155150.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–10032 Filed 5–10–18; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36190]

Terminal Railway Alabama State Docks—Temporary Trackage Rights Exemption—Norfolk Southern Railway Company

Terminal Railway Alabama State Docks (TASD), a Class III switching and terminal carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(8) for its acquisition of temporary overhead trackage rights from Norfolk Southern Railway Company (NSR) over NSR's 3–B South District rail line between the connection with TASD at approximately milepost 146.9 MB at CN Crossing and the connection with TASD at approximately milepost 144.0 MB at Terminal Junction, a distance of approximately 2.9 miles in Mobile, Ala. (the Line).

TASD states that, pursuant to a written Detour and Temporary Trackage Rights Agreement (Agreement) dated April 18, 2018,[1] NSR has agreed to grant the specified temporary overhead trackage rights to TASD. TASD has concurrently filed a petition for waiver of the 30-day period under 49 CFR 1180.4(g) to allow the proposed temporary trackage rights to become effective immediately.[2] TASD states that it intends to consummate the transaction immediately upon issuance of the Board's decision on its petition for waiver, if waiver is granted, or upon the effective date of the notice, May 27, 2018. The sole purpose of the trackage rights is to accommodate emergency detour operations by TASD over the Line while repairs are made to TASD's Viaduct Bridge. The temporary trackage rights will expire on October 18, 2018.

As a condition to this exemption, any employees affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980), and any employees affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

[1] A copy of the Agreement was filed with the notice.

[2] The petition for waiver will be addressed in a separate decision.

This notice is filed under 49 CFR 1180.2(d)(8). If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption.

An original and 10 copies of all pleadings, referring to Docket No. FD 36190, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on applicant's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606–2832.

According to TASD, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic reporting under 49 CFR 1105.8(b)(3).

Board decisions and notices are available on our website at ''*WWW.STB.GOV.*''

Decided: May 8, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2018–10115 Filed 5–10–18; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36185]

Hainesport Industrial Railroad, LLC—Lease and Operation Exemption—Hainesport Secondary Railroad, LLC

Hainesport Industrial Railroad, LLC (Hainesport Industrial), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate a line of railroad consisting of a yard, grounds, and improvements thereon (the Line), owned by its corporate affiliate, Hainesport Secondary Railroad, LLC (Hainesport Secondary). The Line is located at Block 104 of Lot 11 on the Tax Map of the Township of Hainesport, NJ, at 5900 Delaware Avenue. The Line includes a permanent easement running over Block 104, Lot 8.01, on the Tax Map of Hainesport.[1]

The verified notice states that Hainesport Industrial and Hainesport Secondary entered into a 10-year lease agreement on January 1, 2016, but did not realize that the lease and operation agreement required Board approval.

[1] Hainesport Industrial states that there are no milepost designations associated with the Line.

Hainesport Industrial states that the transaction will not result in it becoming a Class I or Class II rail carrier but that its projected annual revenues will exceed $5 million. Accordingly, Hainesport Industrial is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national office of the labor unions with employees on the affected lines, post a copy of the notice at the workplace of the employees on the affected lines, and certify to the Board that it has done so. 49 CFR 1150.42(e).

Hainesport Industrial, concurrently with its notice of exemption, filed a letter requesting waiver of the 60-day advance labor notice requirement under § 1150.42(e), asserting that: (1) Hainesport Secondary will be the entity actually performing rail operations and employing personnel; and (2) no Hainesport Industrial employees will be affected because Hainesport Industrial does not have any employees. Hainesport Industrial's waiver request will be addressed in a separate decision. The Board will establish in the decision on the waiver request the date this exemption will become effective.

Hainesport Industrial also certifies that the proposed acquisition does not involve an interchange commitment or other limitation of future interchange with a third-party connecting carrier.[2]

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 18, 2018.

An original and 10 copies of all pleadings, referring to Docket No. FD 36185, must be filed with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, ClarkHillStrasburger, 1025 Connecticut Avenue NW, Suite 717, Washington, DC 20036.

According to Hainesport Industrial, this action is exempt from environmental review under 49 CFR 1105.6(c) and exempt from historic review under 49 CFR 1105.8(b)(1).

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: May 8, 2018.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2018–10059 Filed 5–10–18; 8:45 am]

BILLING CODE 4915–01–P

[2] The verified notice of exemption includes conflicting information regarding the existence of interchange commitments. *See* Verified Notice of Exemption 7. However, in a letter filed on May 4, 2018, Hainesport Industrial certified that ''there are no interchange commitments involved in this transaction.'' The letter cites 49 CFR part 1180. The correct regulation governing disclosure of interchange agreements in this proceeding is 49 CFR 1150.43(h), but as the relevant portion of the regulations in parts 1150 and 1180 are identical, the certification is adequate.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2018–0011; Dispute Number WT/DS436]

WTO Dispute Settlement Proceeding: United States Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products From India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice with request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR) is providing notice that India has requested the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (WTO Agreement). That request may be found at *www.wto.org* in a document designated as WT/DS436/18. USTR invites written comments from the public concerning the issues raised in this dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, you should submit your comment on or before June 11, 2018 be assured of timely consideration by USTR.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in Section III below. The docket number USTR–2018–0011. For alternatives to on-line submissions, please contact Sandy McKinzy at (202) 395–9483.

FOR FURTHER INFORMATION CONTACT: Assistant General Counsel Amanda Lee at 202–395–9589 or Assistant General Counsel Ryan Majerus at 202–395–0380.

SUPPLEMENTARY INFORMATION:

I. Background

Section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)) requires notice and opportunity for comment after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Pursuant to this provision, USTR is providing notice that the United States has requested a dispute settlement panel pursuant to the WTO *Understanding on Rules Procedures Governing the Settlement of Disputes* (DSU). Once the WTO establishes a dispute settlement panel, the panel will hold its meetings in Geneva Switzerland.

II. Major Issues Raised by India

On December 19, 2014, the WTO Dispute Settlement Body (DSB) adopted its recommendations and rulings in the dispute *United States—Countervailing Measures on Certain Hot-Rolled Steel Flat Products from India* (DS436). The DSB found that certain countervailing duty measures imposed by the United States on certain hot-rolled steel flat products imported from India (C–533–821) were inconsistent with its obligations under the *Agreement on Subsidies and Countervailing Measures* (SCM Agreement). The DSB recommended that the United States bring its measures into conformity with its obligations under the SCM Agreement.

The U.S. Department of Commerce (DOC) and the U.S. International Trade Commission (ITC) subsequently issued section 129 determinations. On April 28, 2016, the U.S. Trade Representative directed DOC to implement its determinations, pursuant to section 129 of the Uruguay Round Agreements Act (19 U.S.C. 3538(b)(4)). Notice of the completed implementation process was published in the **Federal Register** on May 6, 2016 as *Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act* (81 FR 27412).

On June 5, 2017, pursuant to an understanding on procedures under Articles 21 and 22 of the DSU, India requested consultations with the United States. You can find that at *www.wto.org* in a document designated as WT/DS436/17. The United States and India held consultations on July 13, 2017. On March 29, 2018, the United States received India's request for the establishment of a panel.

In its request for the establishment of a panel, India alleges that the DOC and ITC section 129 determinations are not consistent with the United States' obligations under Articles 1, 2, 10, 11, 12, 13, 14, 15, 19, 21, 22 and 32 of the SCM Agreement, as well as Article VI of the GATT 1994. India also alleges that the United States' failure to amend 19 U.S.C. 1677(7)(G)(iii) is inconsistent with Article 15 of the SCM Agreement.

III. Public Comments: Requirements for Submissions

USTR invites written comments concerning the issues raised in this dispute. All submissions must be in English and sent electronically via *www.regulations.gov.* To submit comments via *www.regulations.gov,* enter docket number USTR–2018–0011 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting ''Notice'' under ''Document Type'' on the left side of the search-results page, and click on the link entitled ''Comment Now!'' For further information on using the *www.regulations.gov* website, please consult the resources provided on the website by clicking on ''How to Use Regulations.gov'' on the bottom of the home page.

The *www.regulations.gov* website allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''see attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If a submission is in an application other than those two, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top and bottom of that page and the submission should clearly indicate, via brackets, highlighting, or other means, the specific information that is business confidential. If you request business confidential treatment, you must certify in writing that disclosure of the information would endanger trade secrets or profitability, and that the information would not customarily be released to the public. Filers of submissions containing business confidential information also must submit a public version of their comments. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comment. If this is no sufficient to protect business confidential information or otherwise protect business interests, please contact Sandy McKinzy at 202–395–9483 to discuss whether alternative arrangements are possible.

USTR may determine that information or advice contained in a comment, other than business confidential information, is confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If a submitter believes that information or advice is confidential, s/he must clearly designate the information or advice as confidential and mark it as ''SUBMITTED IN CONFIDENCE'' at the top and bottom of the cover page and each succeeding page, and provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a docket on this dispute settlement proceeding, docket number USTR–2018–0011, accessible to the public at *www.regulations.gov.* The public file will include non-confidential public comments USTR receives regarding the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, USTR will make the following documents publicly available at *www.ustr.gov:* The U.S. submissions and any non-confidential summaries of submissions received from other participants in the dispute. If a dispute settlement panel is convened, or in the event of an appeal from a panel, the report of the panel, and, if applicable, the report of the Appellate Body, will also be available on the website of the World Trade Organization, at *www.wto.org.*

Juan Millan,

Assistant United States Trade Representative for Monitoring and Enforcement, Office of the U.S. Trade Representative.

[FR Doc. 2018–10055 Filed 5–10–18; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of the Cleveland/Detroit Metroplex Final Environmental Assessment and Finding of No Significant Impact/Record of Decision

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of availability of Final Environmental Assessment and Finding of No Significant Impact/Record of Decision.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that it has published a Final Environmental Assessment and Finding of No Significant/Record of Decision for the Cleveland/Detroit Metroplex project.

FOR FURTHER INFORMATION CONTACT: Gregory L. Hines, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177, email address: *9-ASW-CLE-DTWOAPM-Comment@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA has prepared a Final Environmental Assessment (EA) to assess the potential environmental impacts of the Cleveland/Detroit Metroplex project in compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.* This notice announces that based on the information and analysis contained in the Final EA, the FAA is issuing a Finding of No Significant Impact and Record of Decision (FONSI/ROD) for the project. The Final EA and FONSI/ROD document the FAA's determination that the project, as proposed, would not significantly affect the quality of the human environment and that an Environmental Impact Statement (EIS) is therefore not necessary. The FONSI/ROD documents the FAA's decision to proceed with the preferred alternative detailed in the EA. The Cleveland/Detroit Metroplex project will improve the efficiency of the national airspace system in the Cleveland-Detroit area by optimizing aircraft arrival and departure procedures at 12 Cleveland-Detroit area airports.

Availability: The Final EA and FONSI/ROD are available for public review at: (1) Online *http://www.metroplexenvironmental.com/cle_dtw_metroplex/cle_dtw_docs.html.* (2) Electronic versions of the Final EA and FONSI/ROD are available at 69 libraries in the General Study Area. A complete list of libraries with electronic copies of the Final EA and FONSI/ROD is available online *http://www.metroplexenvironmental.com/cle_dtw_metroplex/cle_dtw_introduction.html.*

Issued in Fort Worth, Texas, on May 7, 2018.

Christopher L. Southerland,

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

[FR Doc. 2018–10143 Filed 5–10–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2012–0033]

Notice of Intent To Grant a Buy America Waiver to the North Carolina Department of Transportation To Use Certain Non-Domestic Components of a Fire Alarm System

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waiver.

SUMMARY: FRA is issuing this notice to advise the public it intends to grant the North Carolina Department of Transportation (NCDOT) a waiver from FRA's Buy America requirement to use certain non-domestic components of a fire alarm system that Lake Electric, Inc. will provide for the Locomotive and Railcar Maintenance Facility project in Charlotte, NC. Lake Electric, Inc. is an electrical contractor for the Locomotive and Railcar Maintenance Facility project.

DATES: Written comments on FRA's determination to grant a Buy America waiver to NCDOT should be provided to the FRA on or before May 18, 2018.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA–2012–0033. All electronic submissions must be made to the U.S. Government electronic site at *http://www.regulations.gov.* Commenters should follow the instructions below for mailed and hand-delivered comments:

(1) *Website: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) *Fax:* (202) 493–2251;

(3) *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M–30, Room W12–140, Washington, DC 20590–0001; or

(4) *Hand Delivery:* Room W12–140 on the first floor of the West Building, 1200 New Jersey Avenue SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must reference the ''Federal Railroad Administration'' and include docket number FRA–2012–0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting responses to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 493–0078, *John.Johnson@dot.gov.*

SUPPLEMENTARY INFORMATION: FRA provided information on its reasons for granting this waiver in a letter to NCDOT, quoted below:

NCDOT Rail Division
1553 Mail Service Center
1 South Wilmington Street
Raleigh, NC 27699–1553
Re: Request for Waiver of Buy America Requirement

Dear Mr. Allan Paul:

On April 4, 2017, Lake Electric, Inc. requested a waiver from the Federal Railroad Administration's (FRA) Buy America requirement (49 U.S.C. 24405(a)) to use certain components of a fire alarm system, which cannot be sourced in the United States, in the Locomotive and Railcar Maintenance Facility project in Charlotte, NC (Project). The Project is for the construction of a railcar and maintenance facility in Charlotte, North Carolina. The North Carolina Department of Transportation (NCDOT), through its contractor, awarded Lake Electric, Inc. the electrical construction sub-contract for the Project. The $23.25 million project is funded by an American Recovery and Reinvestment Act of 2009 grant to NCDOT.

The Project is subject to 49 U.S.C. 24405(a)(l). Section 24405(a)(l) requires the steel, iron, and manufactured goods used in a project to be produced in the United States. FRA may waive the Buy America requirements if FRA finds that: (1) applying the requirements would be inconsistent with the public interest; (2) the steel, iron, and goods manufactured in the United States are not produced in sufficient and reasonably available amounts or are not of a satisfactory quality; (3) rolling stock or power train equipment cannot be bought or delivered to the United States within a reasonable time; or (4) including domestic material will increase the cost of the overall project by more than 25 percent.

For the reasons stated in this letter, FRA grants a ''non-availability'' Buy America waiver. FRA is providing its decision on the waiver to NCDOT as the FRA grant recipient for this Project, and this waiver applies only to this Project.

Lake Electric seeks a waiver for the following components (Components) for use in the Project:

Description	Quantity
252 Point Fire Alarm Control Panel	1
Digital Alarm Communicator Transmitter	1
Remote Annunciators	1
RS–485 Interface Modules	1
12V7ah SIA Batteries	4
Dual Action Manual pull stations	7
Photoelectric Smoke Detectors	22
Relay Modules	4
Red Wall Mount Horn/Strobes	18
Red Wall Mount Strobes	14
Multi-Criteria Fire Detectors	5
Monitor Modules	5
Dual Input Monitor Modules	1

The total cost of the fire alarm system is less than $6,000, and the total cost of the non-U.S. manufactured components is less than $4,000.

Lake Electric asserts the following facts in support of the waiver request:

Lake Electric sought bids from fourteen qualified suppliers and received two bids for the fire alarm system from suppliers Southern Sound and Lefler Electronics. Although these suppliers source many fire alarm system components from U.S. manufacturers, neither of the suppliers offered a one hundred percent Buy America-compliant system. All fire alarm system suppliers use a mix of foreign and US-made components; and

The foreign components used by suppliers vary. However, due to programming, interoperability, and certification issues, the components are not interchangeable among systems. Therefore, suppliers cannot swap out components to meet Buy America.

FRA independently verified these assertions with its Monitoring and Technical Assistance Contractor (MTAC), TranSystems. An electrical engineer from FRA's MTAC explained that large international suppliers source or manufacture pieces of the fire alarm system in different countries. Further, many portions of the system are addressable (individually programmable), which means the software and hardware must be compatible and tested. In addition, fire alarm components and systems are UL® listed. UL® is a third-party, independent company that certifies safety compliance of many systems and their components, including fire alarm systems. Attempting to swap pieces of a fire alarm system would jeopardize its UL® listing and could cause product warranty and liability issues.

FRA concludes a waiver is appropriate under 49 U.S.C. 24405(a)(2)(B) for the Components because domestically-produced Components are not currently ''produced in sufficient and reasonably available amounts.'' 49 U.S.C. 24405(a)(2)(B). FRA bases this determination on the following:

For competitively bid, commercial products for buildings, such as fire alarm systems, FRA views receiving no Buy America-compliant bids as presumptive evidence the conditions exist to grant a non-availability waiver;

On September 28, 2017, FRA provided public notice of this waiver request and a 15-day opportunity for comment on its website. FRA also emailed notice to over 6,000 recipients that requested Buy America notices through ''GovDelivery.'' FRA received one comment. However, the commenter did not provide any information about a domestic source for a fully Buy America-compliant fire alarm system; and

FRA's MTAC concurred with Lake Electric that due to programming, interoperability, and certification issues, components are not interchangeable among systems. Therefore, fire alarm system suppliers cannot swap out components to meet Buy America.

This waiver applies only to this Project for these specific components.

Under 49 U.S.C. 24405(a)(4), FRA will publish this letter granting the Buy America waiver to the City in the **Federal Register** and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at *John.Johnson@dot.gov* or (202) 493–0078.

Sincerely,
Ronald L. Batory,
Administrator
cc: Lake Electric Co.

Brett Andrew Jortland,

Acting Deputy Chief Counsel.

[FR Doc. 2018–10042 Filed 5–10–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Allocation Availability (NOAA) Inviting Applications for the Calendar Year (CY) 2018 Allocation Round of the New Markets Tax Credit (NMTC) Program

FUNDING OPPORTUNITY TITLE: Notice of Allocation Availability (NOAA) Inviting Applications for the Calendar Year (CY) 2018 Allocation Round of the New Markets Tax Credit (NMTC) Program.

ANNOUNCEMENT TYPE: Announcement of allocation availability.

DATES: Electronic applications must be received by 5:00 p.m. ET on June 28, 2018. Applications sent by mail, facsimile, or other form will not be accepted. Please note the Community Development Financial Institutions Fund (CDFI Fund) will only accept applications and attachments (*e.g.,* the Controlling Entity's representative signature page, investor letters, and organizational charts) in electronic form (see Section IV.C of this NOAA for more details). Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOAA. Any Applicant that is not yet certified as a Community Development Entity (CDE) must submit an application for CDE certification through the CDFI Fund's Awards Management Information System (AMIS) on or before 5:00 p.m. ET on May 24, 2018 (see Section III.A.1 of this NOAA for more details on CDE certification).

EXECUTIVE SUMMARY: This NOAA is issued in connection with the CY 2018 allocation round (Allocation Round) of the New Markets Tax Credit Program (NMTC Program), as authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554) and amended by section 221 of the American Jobs Creation Act of 2004 (Pub. L. 108–357), section 101 of the Gulf Opportunity Zone Act of 2005 (Pub. L. 108–357), Division A, section 102 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432), section 733 of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (Pub. L. 111–312), section 305 of the American Taxpayer Relief Act of 2012 (Pub. L. 112–240), section 115 of the Tax Increase Prevention Act of 2014 (Pub. L. 113–295), and section 141 of the Protecting Americans from Tax Hikes Act (PATH) of 2015. Through the NMTC Program, the CDFI Fund provides authority to CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities. Through this NOAA, the CDFI Fund announces the availability of $3.5 billion of NMTC allocation authority in this Allocation Round.

In this NOAA, the CDFI Fund specifically addresses how a CDE may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

I. Allocation Availability Description

A. *Programmatic changes from the CY 2017 allocation round:*

1. *Prior QEI Issuance Requirements:* Qualified Equity Investment (QEI) issuance threshold with respect to its prior-year allocation. These thresholds and deadlines have been revised in comparison to the CY 2017 NOAA. In this Round, the CDFI Fund is not requiring a minimum threshold of Qualified Equity Investments (QEIs) be issued as a condition of eligibility. During Phase 2, the CDFI Fund will consider prior Round Allocatees' QEI issuance recorded in the CDFI Fund's online systems as of September 24, 2018. See Section V.C of this NOAA for additional details on Phase 2 reviews.

B. *Program guidance and regulations:* This NOAA describes application and allocation requirements for this Allocation Round of the NMTC Program and should be read in conjunction with: (i) Guidance published by the CDFI Fund on how an entity may apply to become certified as a CDE (66 **Federal Register** 65806, December 20, 2001); (ii) the final regulations issued by the Internal Revenue Service (the IRS) (26 CFR 1.45D–1, published on December 28, 2004), as amended and related guidance, notices and other publications; and (iii) the application and related materials for this Allocation Round. All such materials may be found on the CDFI Fund's website at *https://www.cdfifund.gov.* The CDFI Fund requires Applicants to review these documents. Capitalized terms used, but not defined, in this NOAA have the respective meanings assigned to them in the NMTC Program Allocation application, IRC § 45D or the IRS regulations. In the event of any inconsistency between this NOAA, the allocation application, and guidance issued by the CDFI Fund thereto, IRC § 45D or the IRS regulations, the provisions of IRC § 45D and the IRS regulations shall govern.

II. Allocation Information

A. *Allocation amounts:* Pursuant to the PATH Act of 2015, the CDFI Fund expects that it may allocate to CDEs the authority to issue to their investors the aggregate amount of $3.5 billion in equity as to which NMTCs may be claimed, as permitted under IRC § 45D(f)(1)(D). Pursuant to this NOAA, the CDFI Fund anticipates that it will issue up to $100 million in tax credit investment authority per Allocatee. The CDFI Fund, in its sole discretion, reserves the right to allocate amounts in excess of or less than the anticipated maximum allocation amount should the CDFI Fund deem it appropriate. In order to receive an allocation in excess of the $100 million cap, an Applicant, at a minimum, must demonstrate that: (i) No part of its strategy can be successfully implemented without an allocation in excess of the applicable cap; and/or (ii) its strategy will produce extraordinary community outcomes. The CDFI Fund reserves the right to allocate NMTC authority to any, all, or none of the entities that submit applications in response to this NOAA, and in any amounts it deems appropriate.

B. *Type of award:* NMTC Program awards are made in the form of

allocations of tax credit investment authority.

C. *Allocation Agreement:* Each Allocatee must sign an Allocation Agreement, which must be countersigned by the CDFI Fund, before the NMTC allocation is effective. The Allocation Agreement contains the terms and conditions of the NMTC allocation. For further information, see Section VI of this NOAA.

III. Eligibility

A. *Eligible Applicants:* IRC § 45D specifies certain eligibility requirements that each Applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional detail and certain additional dates that relate to the submission of applications under this NOAA for the available NMTC allocation authority.

1. *CDE certification:* For purposes of this NOAA, the CDFI Fund will not consider an application for an allocation of NMTCs unless: (a) The Applicant is certified as a CDE at the time the CDFI Fund receives its NMTC Program allocation application; or (b) the Applicant submits an application for certification as a CDE through the CDFI Fund's Awards Management Information System (AMIS) on or before 11:59 p.m. ET on May 24, 2018. Applicants for CDE certification may obtain information regarding CDE certification and the CDE certification application process in AMIS on the CDFI Fund's website at *https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx.* Applications for CDE certification must be submitted in AMIS. Paper versions of the CDE certification application will not be accepted. The CDFI Fund will not provide NMTC allocation authority to Applicants that are not certified as CDEs or to entities that are certified as Subsidiary CDEs.

If an Applicant that has already been certified as a CDE wishes to change its designated CDE Service Area, it must submit its request for such change to the CDFI Fund, and the request must be received by the CDFI Fund by 11:59 p.m. ET May 24, 2018. A request to change a CDE's Service Area must be submitted through the CDFI Fund's Awards Management Information System (AMIS) as a Service Request. Such requests will need to include, at a minimum, the applicable CDE control number, the revised service area designation, and updated accountability information that demonstrates that the CDE has the required representation from Low-Income Communities in the revised Service Area.

2. As a condition of eligibility for this Allocation Round, the Applicant will not be permitted to use the proceeds of Qualified Equity Investments (QEIs) to make Qualified Low-Income Community Investments (QLICIs) in Qualified Active Low-Income Community Businesses (QALICBs) where QLICI proceeds are used, in whole or in part, to repay or refinance a debt or equity provider whose capital was used to fund the QEI, or are used to repay or refinance any Affiliate of such a debt or equity provider, except where: (i) The QLICI proceeds are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB, and such past expenditures were incurred no more than 24 months prior to the QLICI closing date; or (ii) no more than five percent of the total QLICI proceeds from the QEI are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB. Refinance includes transferring cash or property, directly or indirectly, to the debt or equity provider or an Affiliate of the debt or equity provider.

3. *Prior award recipients or Allocatees:* Applicants must be aware that success in a prior application or allocation round of any of the CDFI Fund's programs is not indicative of success under this NOAA. For purposes of this section, the CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate as defined in the NMTC allocation application materials, or any entity otherwise identified as an Affiliate by the Applicant in its NMTC allocation application materials. Prior award recipients of any CDFI Fund program are eligible to apply under this NOAA, except as follows:

a. *Pending determination of noncompliance or default:* If an Applicant is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) It has submitted reports to the CDFI Fund that demonstrate potential noncompliance with or default under a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance or default of its previous assistance, award or Allocation Agreement, the CDFI Fund will consider the Applicant's application under this NOAA pending final determination of whether the entity is in noncompliance or default, in the sole determination of the CDFI Fund. Further, if an Affiliate of the Applicant is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) Has submitted reports to the CDFI Fund that demonstrate potential noncompliance with or default under a previous assistance, award or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance or default of its previous assistance, award or Allocation Agreement, the CDFI Fund will consider the Applicant's application under this NOAA pending final determination of whether the entity is in noncompliance or default, in the sole determination of the CDFI Fund.

Moreover, if an Applicant is a prior Allocatee, and is otherwise eligible as of the application deadline, the Applicant must continue to be compliant with its Allocation Agreement(s) after the application deadline, in order for the CDFI Fund to continue evaluating its application. If an Applicant fails to do such, the CDFI Fund will no longer deem the Applicant eligible.

b. *Default status:* The CDFI Fund will not consider an application submitted by an Applicant that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program if, as of the application deadline of this NOAA: (i) The CDFI Fund has made a final determination that such Applicant is in default of a previously executed assistance, allocation, or award agreement; and (ii) the CDFI Fund has provided written notification of such determination to the Applicant; and the default occurs during the time period beginning six months prior to the Application Deadline and ending with the execution of the Allocation Agreement; or (iii) the default notification indicates that the Applicant is not eligible to apply for or receive an allocation under the CY 2018 NMTC Program round. Further, the CDFI Fund will not consider an application submitted by an Applicant for which there is an Affiliate that is a prior award recipient or Allocatee under any CDFI Fund Program if, as of the application deadline of this NOAA: (i) The CDFI Fund has made a final determination that such Affiliate is in default of a previously executed assistance, allocation, or award agreement; (ii) the CDFI Fund has provided written notification of such determination to the Affiliate; and (iii) and (ii) the default occurs during the time period beginning six months prior to the Application Deadline and ending with the execution of the Allocation Agreement; or (iii) the default notification indicates that the Affiliate is not eligible to apply for or receive an allocation under the CY 2018 NMTC Program round.

c. *Contact the CDFI Fund:* Accordingly, Applicants that are prior award recipients and/or Allocatees under any other CDFI Fund program are advised to comply with the requirements specified in assistance, allocation and/or award agreement(s). All outstanding reports and compliance questions should be directed to the Office of Certification, Compliance Monitoring, and Evaluation through a Service Request initiated in AMIS. Requests submitted less than thirty calendar days prior to the application deadline may not receive a response before the application deadline.

The CDFI Fund will respond to Applicants' reporting, compliance or disbursement questions between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of publication of this NOAA through June 26, 2018 (two days before the application deadline). The CDFI Fund will not respond to Applicants' reporting, compliance, CDE certification, or disbursement phone calls or email inquiries that are received after 5:00 p.m. ET on June 26, 2018 until after the funding application deadline of June 28, 2018.

4. *Failure to accurately respond to a question in the Assurances and Certifications section of the application, submit the required written explanation, or provide any updates:* In its sole discretion, the CDFI Fund may deem the Applicant's application ineligible, if the CDFI Fund determines that the Applicant inaccurately responded to a question and failed to submit a required written explanation, accurately answered a question yet failed to submit a required written explanation, or failed to notify the CDFI Fund of any changes to the information submitted between the date of application and the date of the Notice of Allocation, with respect to the Assurances and Certifications. In making this determination, the CDFI Fund will take into consideration, among other factors, the materiality of the question, the substance of any supplemental responses provided, and whether the information in the Applicant's supplemental responses will have a material adverse effect on the Applicant, its financial condition or its ability to perform under an allocation agreement, should the Applicant receive an allocation.

5. *Entities that propose to transfer NMTCs to Subsidiaries:* Both for-profit and non-profit CDEs may apply for NMTC allocation authority, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit Applicant wishing to apply for a NMTC allocation must demonstrate, prior to entering into an Allocation Agreement with the CDFI Fund, that: (i) It controls one or more Subsidiaries that are for-profit entities; and (ii) it intends to transfer the full amount of any NMTC allocation it receives to said Subsidiaries.

An Applicant wishing to transfer all or a portion of its NMTC allocation to a Subsidiary is not required to create the Subsidiary prior to submitting a NMTC allocation application to the CDFI Fund. However, the Subsidiary entities must be certified as CDEs by the CDFI Fund, and enjoined as parties to the Allocation Agreement at closing or by amendment to the Allocation Agreement after closing.

The CDFI Fund requires a non-profit Applicant to submit a CDE certification application to the CDFI Fund on behalf of at least one for-profit Subsidiary within 60 days after the non-profit Applicant receives the Notice of Allocation (NOA) from the CDFI Fund, as such Subsidiary must be certified as a CDE prior to entering into an Allocation Agreement with the CDFI Fund. The CDFI Fund reserves the right to rescind the award if a non-profit Applicant that does not already have a certified for-profit Subsidiary fails to submit a certification application for one or more for-profit Subsidiaries within 60 days of the date of the NOA.

6. Entities that submit applications together with Affiliates; applications from common enterprises:

a. As part of the allocation application review process, the CDFI Fund will evaluate whether Applicants are Affiliates, as such term is defined in the allocation application. If an Applicant and its Affiliate(s) wish to submit allocation applications, they must do so collectively, in one application; an Applicant and its Affiliate(s) may not submit separate allocation applications. If Affiliated entities submit multiple applications, the CDFI Fund will reject all such applications received, except for those State-owned or State-controlled governmental Affiliated entities. In the case of State-owned or State-controlled governmental entities, the CDFI Fund may accept applications submitted by different government bodies within the same State, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and/or are operated and/or managed by distinctly dissimilar personnel, including staff, board members or identified consultants. If the CDFI Fund determines that the applications submitted by different government bodies in the same State are not distinctly dissimilar and/or operated and/or managed by distinctly dissimilar personnel, it will reject all such applications. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the $100 million cap.

b. For purposes of this NOAA, the CDFI Fund will also evaluate whether each Applicant is operated or managed as a ''common enterprise'' with another Applicant in this Allocation Round using the following indicia, among others: (i) Whether different Applicants have the same individual(s), including the Authorized Representative, staff, board members and/or consultants, involved in day-to-day management, operations and/or investment responsibilities; (ii) whether the Applicants have business strategies and/or proposed activities that are so similar or so closely related that, in fact or effect, they may be viewed as a single entity; and/or (iii) whether the applications submitted by separate Applicants contain significant narrative, textual or other similarities such that they may, in fact or effect, be viewed as substantially identical applications. In such cases, the CDFI Fund will reject all applications received from such entities.

c. Furthermore, an Applicant that receives an allocation in this Allocation Round (or its Subsidiary Allocatee) may not become an Affiliate of or member of a common enterprise (as defined above) with another Applicant that receives an allocation in this Allocation Round (or its Subsidiary Allocatee) at any time after the submission of an allocation application under this NOAA. This prohibition, however, generally does not apply to entities that are commonly Controlled solely because of common ownership by QEI investors. This requirement will also be a term and condition of the Allocation Agreement (see Section VI.B of this NOAA and additional application guidance materials on the CDFI Fund's website at *https://www.cdfifund.gov* for more details).

7. *Entities created as a series of funds:* An Applicant whose business structure consists of an entity with a series of funds must apply for CDE certification for each fund. If such an Applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an Applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it must submit a CDE certification application for the Applicant and each fund it would like

to participate in the NMTC Program, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an Applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds is classified as a single partnership or corporation or as multiple partnerships or corporations, an Applicant may not transfer any NMTC allocations it receives to one or more of its funds unless the fund is a certified CDE that is a Subsidiary of the Applicant, enjoined to the Allocation Agreement as a Subsidiary Allocatee.

8. *Entities that are Bank Enterprise Award Program (BEA Program) award recipients:* An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a NMTC allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to a NMTC allocation for the same investment in a CDE.

IV. Application and Submission Information

A. *Address to request application package:* Applicants must submit applications electronically under this NOAA, through the CDFI Fund website. Following the publication of this NOAA, the CDFI Fund will make the electronic allocation application available on its website at *https://www.cdfifund.gov.* Applications sent by mail, facsimile or other form will not be accepted. Please note the CDFI Fund will only accept the application and attachments (*e.g.,* the Controlling Entity's representative signature page, investor letters, and organizational charts) in electronic form.

B. *Application content requirements:* Detailed application content requirements are found in the application related to this NOAA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation, except, if necessary and at the request of the CDFI Fund. Electronic applications must be submitted solely by using the format made available at the CDFI Fund's website. Additional information, including instructions relating to the submission of supporting information (*e.g.,* the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, organizational charts), is set forth in further detail in the NMTC Electronic Application Instructions for this Allocation Round. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service (IRS) and assigned to the Applicant and, if applicable, its Controlling Entity. Electronic applications without a valid EIN are incomplete and cannot be transmitted to the CDFI Fund. For more information on obtaining an EIN, please contact the IRS at (800) 829–4933 or *www.irs.gov.* Do not include any personal Social Security Numbers as part of the application.

An Applicant may not submit more than one application in response to this NOAA. In addition, as stated in Section III.A.6 of this NOAA, an Applicant and its Affiliates must collectively submit only one allocation application; an Applicant and its Affiliates may not submit separate allocation applications except as outlined in Section III.A.6 above. Once an application is submitted, an Applicant will not be allowed to change any element of its application.

C. *Form of application submission:* Applicants may only submit applications under this NOAA electronically. Applications sent by facsimile or by email will not be accepted. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the CDFI Fund in the implementation of electronic reporting requirements.

Electronic applications must be submitted solely by using the CDFI Fund's website and must be sent in accordance with the submission instructions provided in the NMTC Electronic Application Instruction for this Allocation Rounds. The CDFI Fund recommends use of internet Explorer version 8 or higher on a Microsoft Windows-based computer (Windows Vista or higher), and optimally at least a 56Kbps internet connection in order to meet the electronic application submission requirements. Use of other browsers (*e.g.,* Firefox, Chrome, Safari), other versions of internet Explorer, or other operating systems (*e.g.,* Mac) might result in problems during submission of the application. The CDFI Fund's electronic application system will only permit the submission of applications in which all required questions and tables are fully completed. Additional information, including instructions relating to the submission of supporting information (*e.g.,* the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, and organizational charts) is set forth in further detail in the NMTC Electronic Application Instructions for this Allocation Round.

D. *Application submission dates and times:*

1. *Application deadlines:*

a. Electronic applications must be received by 5:00 p.m. ET on June 28, 2018. Electronic applications cannot be transmitted or received after 5:00 p.m. ET on June 28, 2018. In addition, Applicants must electronically submit supporting information (*e.g.,* the Controlling Entity's representative signature page, investor letters, and organizational charts). The Controlling Entity's representative signature page, investor letters and organizational charts must be submitted on or before 5:00 p.m. ET on June 28, 2018. For details, see the instructions provided in the NMTC Electronic Application Instructions for this Allocation Round on the CDFI Fund's website.

Applications and other required documents received after this date and time will be rejected. Please note that the document submission deadlines in this NOAA and/or the allocation application are strictly enforced.

E. *Intergovernmental Review:* Not applicable.

F. *Funding Restrictions:* For allowable uses of investment proceeds related to a NMTC allocation, please see 26 U.S.C. 45D and the final regulations issued by the Internal Revenue Service (26 CFR 1.45D–1, published December 28, 2004 and as amended) and related guidance. Please see Section I, above, for the Programmatic Changes of this NOAA.

G. *Paperwork Reduction:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the application has been assigned the following control number: 1559–0016.

V. Application Review Information

A. *Review and selection process:* All allocation applications will be reviewed for eligibility and completeness. To be complete, the application must contain, at a minimum, all information described as required in the application form. An incomplete application will be rejected. Once the application has been

determined to be eligible and complete, the CDFI Fund will conduct the substantive review of each application in two parts (Phase 1 and Phase 2) in accordance with the criteria and procedures generally described in this NOAA and the allocation application.

In Phase 1, three reviewers will evaluate and score the Business Strategy and Community Outcomes sections of each application. An Applicant must exceed a minimum overall aggregate base score threshold *and* exceed a minimum aggregate section score threshold in each scored section in order to advance from the Phase 1 to the Phase 2 part of the substantive review process. In Phase 2, the CDFI Fund will rank Applicants and determine the dollar amount of allocation authority awarded in accordance with the procedures set forth below.

B. *Criteria:*

1. *Business Strategy* (25-point maximum):

a. When assessing an Applicant's business strategy, reviewers will consider, among other things: The Applicant's products, services and investment criteria; a pipeline of potential business loans or investments consistent with an *Applicant's* request for an *NMTC Allocation;* the prior performance of the Applicant or its Controlling Entity, particularly as it relates to making similar kinds of investments as those it proposes to make with the proceeds of QEIs; the Applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; the extent to which the Applicant intends to make QLICIs in one or more businesses in which persons unrelated to the entity hold a majority equity interest; and the extent to which Applicants that otherwise have notable relationships with the Qualified Active Low Income Community Businesses (QALICBs) financed will create benefits (beyond those created in the normal course of a NMTC transaction) to Low-Income Communities.

Under the Business Strategy criterion, an Applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which are flexible or non-traditional in form and on better terms than available in the marketplace. An Applicant will also score well to the extent that, among other things: (i) It has identified a set of clearly-defined potential borrowers or investees; (ii) it has a track record of successfully deploying loans or equity investments and providing services similar to those it intends to provide with the proceeds of QEIs; (iii) its projected dollar volume of NMTC deployment is supported by its track record of deployment; (iv) in the case of an Applicant proposing to purchase loans from CDEs, the Applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to Low-Income Communities. If the Applicant (or its Affiliates) have notable relationships with QALICBs, the Applicant will generally score well if it quantifies how such relationships will create benefits (*i.e.* cost savings, lower fees) for *QALICBs,* unaffiliated end-users such as tenant businesses, or residents of *Low-Income Communities.*

b. *Priority Points:* In addition, as provided by IRC § 45D(f)(2), the CDFI Fund will ascribe additional points to entities that meet one or both of the statutory priorities. First, the CDFI Fund will give up to five (5) additional points to any Applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the CDFI Fund will give five (5) additional points to any Applicant that intends to satisfy the requirement of IRC § 45D(b)(1)(B) by making QLICIs in one or more businesses in which persons unrelated (within the meaning of IRC § 267(b) or IRC § 707(b)(1)) to an Applicant (and the Applicant's subsidiary CDEs, if the *Subsidiary Allocatee* makes the *QLICI*) hold the majority equity interest. Applicants may earn points for one or both statutory priorities. Thus, Applicants that meet the requirements of both priority categories can receive up to a total of ten (10) additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an Applicant itself or by its Controlling Entity (*e.g.,* where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An Applicant that receives additional points for intending to make investments in unrelated businesses and is awarded a NMTC allocation must meet the requirements of IRC § 45D(b)(1)(B) by investing substantially all of the proceeds from its QEIs in unrelated businesses. The CDFI Fund will factor in an Applicant's priority points when ranking Applicants during Phase 2 of the review process, as described below.

2. *Community Outcomes* (25-point maximum): In assessing the potential benefits to Low-Income Communities that may result from the Applicant's proposed investments, reviewers will consider, among other things, the degree to which the Applicant is likely to: (i) Achieve significant and measurable community development outcomes in its Low-Income Communities; (ii) invest in particularly economically distressed markets: (iii) Engage with local communities regarding investments; (iv) the level of involvement of community representatives in the Governing Board and/or Advisory Board in approving investment criteria or decisions; and (v) demonstrate a track record of investing in businesses that spur additional private capital investment in Low-Income Communities.

An Applicant will generally score well under this section to the extent that, among other things: (a) It will generate clear and well supported community development outcomes; (b) it has a track record of producing quantitative and qualitative community outcomes that are similar to those projected to be achieved with an NMTC allocation; (c) it is working in particularly economically distressed or otherwise underserved communities; (d) its activities are part of a broader community or economic development strategy; (e) it demonstrates a track record of community engagement around past investment decisions; (f) it ensures that an NMTC investment into a project or business is supported by and will be beneficial to Low-Income Persons and residents of Low-Income Communities (LICs); and (g) it is likely to engage in activities that will spur additional private capital investment.

C. *Phase 2 Evaluation:*

1. *Anomaly Reviews:* Using the numeric scores from Phase 1, Applicants are ranked on the basis of each Applicant's combined scores in the Business Strategy and Community Outcomes sections of the application plus one half of the priority points. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the two application scored sections) varies significantly from the median of the three reviewers' total base scores or section scores for such application, the CDFI Fund may, in its sole discretion, obtain the evaluation and numeric scoring of an additional fourth reviewer to determine whether the anomalous score should be replaced with the score of the additional fourth reviewer.

2. *Late Reports:* In the case of an Applicant or any Affiliates that has previously received an award or allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct points from the Applicant's ''Final Rank Score'' for the Applicant's

(or its Affiliate's) failure to meet any of the reporting deadlines set forth in any assistance, award or Allocation Agreement(s), if the reporting deadlines occurred during the period from June 22, 2017 to the application deadline in this NOAA (June 28, 2018).

3. *Prior Year Allocatees:* In the case of Applicants (or their Affiliates) that are prior year Allocatees, the CDFI Fund will review the activities of the prior year Allocatee to determine whether the entity has: (a) Effectively utilized its prior-year allocations in a manner generally consistent with the representations made in the relevant allocation application (including, but not limited to, the proposed product offerings, QALICB type, fees and markets served); (b) issued QEIs and made QLICIs in a timely manner; and (c) substantiated a need for additional allocation authority. The CDFI Fund will use this information in determining whether to reject or reduce the allocation award amount of its NMTC allocation application.

The CDFI Fund will award allocations in the order of the ''Final Rank Score,'' subject to Applicants meeting all other eligibility requirements; provided, however, that the CDFI Fund, in its sole discretion, reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process.

4. *Management Capacity:* In assessing an Applicant's management capacity, CDFI Fund will consider, among other things, the current and planned roles, as well as qualifications of the Applicant's (and Controlling Entity, if applicable): Principals, board members, management team, and other essential staff or contractors, with specific focus on: Experience in providing loans, equity investments or financial counseling and other services, including activities similar to those described in the Applicant's business strategy; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax credit programs; and the Applicant's (or its Controlling Entity's) financial health. CDFI Fund evaluators will also consider the extent to which an Applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements and the Applicant's projected income and expenses related to managing an NMTC allocation.

An Applicant will be generally evaluated more favorably under this section to the extent that its management team or other essential personnel have experience in: (a) Providing loans, equity investments or financial counseling and other services in Low-Income Communities, particularly those likely to be served by the Applicant with the proceeds of QEIs; (b) asset and risk management; and (c) fulfilling government compliance requirements, particularly tax credit program compliance. An Applicant will also be evaluated favorably to the extent it demonstrates strong financial health and a high likelihood of remaining a going-concern; it clearly explains levels of income and expenses; has policies and systems in place to ensure portfolio quality, ongoing compliance with NMTC Program requirements; and, if it is a Federally-insured financial institution, its most recent Community Reinvestment Act (CRA) rating was ''outstanding.''

5. *Capitalization Strategy:* When assessing an Applicant's capitalization strategy, CDFI Fund will consider, among other things: The key personnel of the Applicant (or Controlling Entity) and their track record of raising capital, particularly from for-profit investors; the extent to which the Applicant has secured investments or commitments to invest in NMTC (if applicable), or indications of investor interest commensurate with its requested amount of tax credit allocations, or, if a prior Allocatee, the track record of the Applicant or its Affiliates in raising Qualified Equity Investments in the past five years; the Applicant's strategy for identifying additional investors, if necessary, including the Applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the distribution of the economic benefits of the tax credit; and the extent to which the Applicant intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations.

An Applicant will be evaluated more favorably under this section to the extent that: (a) It or its Controlling Entity demonstrate a track record of raising investment capital; (b) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments, or, if it or its Affiliates is a prior Allocatee with a track record in the past five years of raising Qualified Equity Investments or; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to a QALICB; and (d) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations. In the case of an Applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the Applicant or from Affiliated entities, said Applicant will be evaluated more favorably to the extent that it will offer products with more favorable rates or terms than those currently offered by its investor(s) or Affiliated entities and/or will target its activities to areas of greater economic distress than those currently targeted by the investor or Affiliated entities.

D. *Allocations serving Non-Metropolitan counties:* As provided for under Section 102(b) of the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432), the CDFI Fund shall ensure that Non-Metropolitan counties receive a proportional allocation of QEIs under the NMTC Program. To this end, the CDFI Fund will ensure that the proportion of Allocatees that are Rural CDEs is, at a minimum, equal to the proportion of Applicants in the highly qualified pool that are Rural CDEs. The CDFI Fund will also endeavor to ensure that 20 percent of the QLICIs to be made using QEI proceeds are invested in Non-Metropolitan counties. A Rural CDE is one that has a track record of at least three years of direct financing experience, has dedicated at least 50 percent of its direct financing dollars to Non-Metropolitan counties over the past five years, and has committed that at least 50 percent of its NMTC financing dollars with this Allocation will be deployed in such areas. Non-Metropolitan counties are counties not contained within a Metropolitan Statistical Area, as such term is defined in OMB Bulletin No. 10–02 (Update of Statistical Area Definitions and Guidance on Their Uses) and applied using 2010 census tracts.

Applicants that meet the minimum scoring thresholds will be advanced to Phase 2 review and will be provided with ''preliminary'' awards, in descending order of Final Rank Score, until the available allocation authority is fulfilled. Once these ''preliminary'' award amounts are determined, the CDFI Fund will then analyze the Allocatee pool to determine whether the two Non-Metropolitan proportionality objectives have been met.

The CDFI Fund will first examine the ''preliminary'' awards and Allocatees to determine whether the percentage of Allocatees that are Rural CDEs is, at a minimum, equal to the percentage of Applicants in the highly qualified pool that are Rural CDEs. If this objective is not achieved, the CDFI Fund will provide awards to additional Rural CDEs from the highly qualified pool, in

descending order of their Final Rank Score, until the appropriate percentage balance is achieved. In order to accommodate the additional Rural CDEs in the Allocatee pool within the available allocation limitations, a formula reduction will be applied as uniformly as possible to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

The CDFI Fund will then determine whether the pool of Allocatees will, in the aggregate, invest at least 20 percent of their QLICIs (as measured by dollar amount) in Non-Metropolitan counties. The CDFI Fund will first apply the ''minimum'' percentage of QLICIs that Allocatees indicated in their applications would be targeted to Non-Metropolitan areas to the total allocation award amount of each Allocatee (less whatever percentage the Allocatee indicated would be retained for non-QLICI activities), and total these figures for all Allocatees. If this aggregate total is greater than or equal to 20 percent of the QLICIs to be made by the Allocatees, then the pool is considered balanced and the CDFI Fund will proceed with the allocation process. However, if the aggregate total is less than 20 percent of the QLICIs to be made by the Allocatees, the CDFI Fund will consider requiring any or all of the Allocatees to direct up to the ''maximum'' percentage of QLICIs that the Allocatees indicated would be targeted to Non-Metropolitan counties, taking into consideration their track record and ability to deploy dollars in Non-Metropolitan counties. If the CDFI Fund cannot meet the goal of 20 percent of QLICIs in Non-Metropolitan counties by requiring any or all Allocatees to commit up to the maximum percentage of QLICIs that they indicated would be targeted to Non-Metropolitan counties, the CDFI Fund may add additional Rural CDEs (in descending order of final rank score) to the Allocatee pool. In order to accommodate any additional Allocatees within the allocation limitations, a formula reduction will be applied as uniformly as possible, to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

E. *Questions:* All outstanding reports or compliance questions should be directed to the Office of Certification, Compliance Monitoring, and Evaluation through the submission of a Service Request in AMIS or by telephone at (202) 653–0423. The CDFI Fund will respond to reporting or compliance questions between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of the publication of this NOAA through June 26, 2018. The CDFI Fund will not respond to reporting or compliance phone calls or email inquiries that are received after 5:00 p.m. ET on June 26, 2018 until after the funding application deadline of June 28, 2018.

F. *Right of rejection:* The CDFI Fund reserves the right to reject any NMTC allocation application in the case of a prior CDFI Fund award recipient, if such Applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC allocation application in the case of a prior CDFI Fund Allocatee, if such Applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the CDFI Fund. The CDFI Fund reserves the right to reject any NMTC allocation application in the case of any Applicant, if an Affiliate of the Applicant has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement or Allocation Agreement with the CDFI Fund.

The CDFI Fund reserves the right to reject or reduce the allocation award amount of any NMTC allocation application in the case of a prior Allocatee, if such Applicant has failed to use its prior NMTC allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, QALICB type, fees and markets served) set forth in the allocation application(s) related to such prior allocation(s) or such Applicant has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D. The CDFI Fund also reserves the right to reject or reduce the allocation award amount of any NMTC allocation application in the case of an Affiliate of the Applicant that is a prior Allocatee and has failed to use its prior NMTC allocation(s) in a manner that is generally consistent with the business strategy set forth in the allocation application(s) related to such prior allocation(s) or has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D.

The CDFI Fund reserves the right to reject an NMTC allocation application if information (including administrative errors or omission of information) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an award, adversely affects the CDFI Fund's evaluation or scoring of an application, adversely affects the CDFI Fund's prior determinations of CDE certification, or indicates fraud or mismanagement on the part of an Applicant or the Controlling Entity, if such fraud or mismanagement by the Controlling Entity would hinder the Applicant's ability to perform under the Allocation Agreement. If the CDFI Fund determines that any portion of the application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application.

As a part of the substantive review process, the CDFI Fund may permit the Allocation Recommendation Panel member(s) to request information from Applicants for the sole purpose of obtaining, clarifying or confirming application information or omission of information. In no event shall such contact be construed to permit an Applicant to change any element of its application. At this point in the process, an Applicant may be required to submit additional information about its application in order to assist the CDFI Fund with its final evaluation process. If the Applicant (or the Controlling Entity or any Affiliate) has previously been awarded an NMTC allocation, the CDFI Fund may also request information on the use of those NMTC allocations, to the extent that this information has not already been reported to the CDFI Fund. Such requests must be responded to within the time parameters set by the CDFI Fund. The selecting official(s) will make a final allocation determination based on an Applicant's file, including, without limitation, eligibility under IRC § 45D, the reviewers' scores and the amount of allocation authority available. The CDFI Fund reserves the right to reject any NMTC Allocation Application if additional information is obtained that, after further due diligence and in the discretion of the CDFI Fund, would hinder the Applicant's ability to effectively perform under the Allocation Agreement.

In the case of Applicants (or the Controlling Entity, or Affiliates) that are regulated or receive oversight by the Federal government or a State agency (or comparable entity), the CDFI Fund may request additional information from the Applicant regarding Assurances and Certifications or other information about the ability of the Applicant to effectively perform under the Allocation Agreement. The Allocation Recommendation Panel or

selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of Applicants (or Affiliates of Applicants) that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the CDFI Fund reserves the right to consult with and take into consideration the views of the Small Business Administration. An Applicant that is or is Affiliated with a insured depository institution will not be awarded an allocation if it has a composite rating of ''5'' on its most recent examination, performed in accordance with the Uniform Financial Institutions Rating System.

Furthermore, the CDFI Fund will not award an NMTC allocation to an Applicant that is or is Affiliated with an insured depository institution for the following reasons, if at the time of application or any time during the application review process through the closing of the Allocation Agreement, the Applicant received any of the following:

1. CRA assessment rating of below ''Satisfactory'' on its most recent examination,
2. A going concern opinion on its most recent audit; or
3. A Prompt Corrective Action directive from its regulator.

The CDFI Fund reserves the right to conduct additional due diligence on all Applicants, as determined reasonable and appropriate by the CDFI Fund, in its sole discretion, related to the Applicant, Affiliates, the Applicant's Controlling Entity and the officers, directors, owners, partners and key employees of each. This includes the right to consult with the IRS if the Applicant (or the Controlling Entity, or Affiliates) has previously been awarded an NMTC allocation.

Each Applicant will be informed of the CDFI Fund's award decision through an electronic notification whether selected for an allocation or not selected for an allocation, which may be for reasons of application incompleteness, ineligibility or substantive issues. Eligible Applicants that are not selected for an allocation based on substantive issues will likely be given the opportunity to receive feedback on their applications. This feedback will be provided in a format and within a timeframe to be determined by the CDFI Fund, based on available resources.

The CDFI Fund further reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website.

There is no right to appeal the CDFI Fund's NMTC allocation decisions. The CDFI Fund's NMTC allocation decisions are final.

VI. Award Administration Information

A. Allocation Award Compliance

1. *Failure to meet reporting requirements:* If an Allocatee, or an Affiliate of an Allocatee, is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation, or award agreement(s), as of the date of the NOA or thereafter, the CDFI Fund reserves the right, in its sole discretion, to reject the application, delay entering into an Allocation Agreement, and/or impose limitations on an Allocatee's ability to issue QEIs to investors until said prior award recipient or Allocatee is current on the reporting requirements in the previously executed assistance, allocation, or award agreement(s). Please note that the automated systems the CDFI Fund uses for receipt of reports submitted electronically typically acknowledges only a report's receipt; such an acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.

2. *Pending determination of noncompliance or default:* If an Allocatee is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) It has submitted reports to the CDFI Fund that demonstrate potential noncompliance with or a default under a previous assistance, award, or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default under its previous assistance, award, or Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue Qualified Equity Investments to investors, pending final determination of whether the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. Further, if an Affiliate of an Allocatee is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) Has submitted reports to the CDFI Fund that demonstrate potential noncompliance/default under a previous assistance, award, or Allocation Agreement; and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance/default under its previous assistance, award, or Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, pending final determination of whether the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. If the prior award recipient or Allocatee in question is unable to satisfactorily resolve the issues of noncompliance, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the award notification made under this NOAA.

3. *Determination of noncompliance or Default status:* If prior to entering into an Allocation Agreement through this NOAA: (i) The CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program is in default or noncompliance of a previously executed assistance, allocation, or assistance agreement(s); (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the default occurs during the time period beginning six months prior to the Application Deadline and ending with the execution of the Allocation Agreement; or (iii) the default notification indicates that the Applicant is not eligible to apply for or receive an allocation under the CY 2018 NMTC Program round, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the Notice of Allocation and the allocation made under this NOAA. Furthermore, if prior to entering into an Allocation Agreement through this NOAA: (i) The CDFI Fund has made a final determination that an Allocatee or an Affiliate of the Allocatee that is a prior CDFI Fund award recipient under any CDFI Fund program is in default of a previously executed assistance, allocation, or award agreement(s); (ii) the CDFI Fund has provided written notification of such determination to such organization; and (ii) the default occurs during the time period beginning six months prior to the Application

Deadline and ending with the execution of the Allocation Agreement; or (iii) the default notification indicates that the Applicant is not eligible to apply for or receive an allocation under the CY 2018 NMTC Program round, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the Notice of Allocation and the allocation made under this NOAA.

B. *Allocation Agreement:* Each Applicant that is selected to receive a NMTC allocation (including the Applicant's Subsidiary Allocatees) must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC allocation which may include, but are not limited to, the following: (i) The amount of the awarded NMTC allocation; (ii) the approved uses of the awarded NMTC allocation (*e.g.,* loans to or equity investments in Qualified Active Low-Income Businesses, loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of QEIs may be used, including the dollar amount of QLICIs that must be invested in Non-Metropolitan counties; (iv) commitments to specific ''innovative activities'' discussed by the Applicant in its Allocation Application; (v) the time period by which the Applicant may obtain QEIs from investors; (vi) reporting requirements for all Applicants receiving NMTC allocations; and (vii) a requirement to maintain certification as a CDE throughout the term of the Allocation Agreement. If an Applicant has represented in its NMTC allocation application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the Applicant hold a majority equity interest, the Allocation Agreement will contain a covenant whereby said Applicant agrees that it will invest substantially all of said proceeds in businesses in which persons unrelated to the Applicant hold a majority equity interest.

In addition to entering into an Allocation Agreement, each Applicant selected to receive a NMTC allocation must furnish to the CDFI Fund an opinion from its legal counsel or a similar certification, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an Applicant (and its Subsidiary Allocatees, if any): (i) Is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

If an Allocatee identifies Subsidiary Allocatees, the CDFI Fund reserves the right to require an Allocatee to provide supporting documentation evidencing that it Controls such entities prior to entering into an Allocation Agreement with the Allocatee and its Subsidiary Allocatees. The CDFI Fund reserves the right, in its sole discretion, to rescind its allocation award if the Allocatee fails to return the Allocation Agreement, signed by the authorized representative of the Allocatee, and/or provide the CDFI Fund with any other requested documentation, including an approved legal opinion, within the deadlines set by the CDFI Fund.

C. *Fees:* The CDFI Fund reserves the right, in accordance with applicable Federal law and, if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC allocations. Prior to imposing any such fee, the CDFI Fund will publish additional information concerning the nature and amount of the fee.

D. *Reporting:* The CDFI Fund will collect information, on at least an annual basis from all Applicants that are awarded NMTC allocations and/or are recipients of QLICIs, including such audited financial statements and opinions of counsel as the CDFI Fund deems necessary or desirable, in its sole discretion. The CDFI Fund will require the Applicant to retain information as the CDFI Fund deems necessary or desirable and shall provide such information to the CDFI Fund when requested to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The CDFI Fund may also provide such information to the IRS in a manner consistent with IRC § 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each QEI raised through its NMTC allocation to make QLICIs. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after due notice to Allocatees.

VII. Agency Contacts

The CDFI Fund will provide programmatic and information technology support related to the allocation application between the hours of 9:00 a.m. and 5:00 p.m. ET through June 26, 2018. The CDFI Fund will not respond to phone calls or emails concerning the application that are received after 5:00 p.m. ET on June 26, 2018 until after the allocation application deadline of June 28, 2018. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *https://www.cdfifund.gov.* The CDFI Fund will post on its website responses to questions of general applicability regarding the NMTC Program.

A. *Information technology support:* Technical support can be obtained by calling (202) 653–0422 or by submitting a Service Request in AMIS. People who have visual or mobility impairments that prevent them from accessing the Low-Income Community maps using the CDFI Fund's website should call (202) 653–0422 for assistance. These are not toll free numbers.

B. *Programmatic support:* If you have any questions about the programmatic requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS; or by telephone at (202) 653–0421. These are not toll-free numbers.

C. *Administrative support:* If you have any questions regarding the administrative requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS, or by telephone at (202) 653–0421. These are not toll free numbers.

D. *IRS support:* For questions regarding the tax aspects of the NMTC Program, contact Jian Grant and James Holmes, Office of the Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 317–4137, or by facsimile at (855) 591–7867. These are not toll free numbers. Applicants wishing for a formal ruling request should see IRS Internal Revenue Bulletin 2018–1, issued January 2, 2018.

VIII. Information Sessions

In connection with this NOAA, the CDFI Fund may conduct one or more information sessions that will be

produced in Washington, DC and broadcast over the internet via webcasting as well as telephone conference calls. For further information on these upcoming information sessions, please visit the CDFI Fund's website at *https://www.cdfifund.gov.*

Authority: 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1.

Mary A. Donovan,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2018–10109 Filed 5–10–18; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1099–R

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 Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

DATES: Written comments should be received on or before July 10, 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 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: Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

OMB Number: 1545–0119.

Form Number: 1099–R.

Abstract: Form 1099–R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.

Current Actions: (1) We have added a box ''to report the date of payment on a reportable life insurance policy sale'' (2) Instructions were updated for boxes 1 and 5 to reflect reportable policy sales, and (3) A new distribution code ''X'' for reportable policy sales in the box 7 instructions.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profit organizations, not for-profit institutions, and Federal, state, local or tribal governments.

Estimated Number of Responses: 89,333,000.

Estimated Time per Response: 26 mins.

Estimated Total Annual Burden Hours: 39,306,520.

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. Comments will be 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 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 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: May 2, 2018.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2018–10024 Filed 5–10–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Form 1096, Annual Summary and Transmittal of U.S. Information Returns

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 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 1096, Annual Summary and Transmittal of U.S. Information Returns.

DATES: Written comments should be received on or before July 10, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to Roberto Mora-Figueroa, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224. Requests for additional information or copies of the regulations should be directed to R. Joseph Durbala, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Summary and Transmittal of U.S. Information Returns.

OMB Number: 1545–0108.

Regulation Project Number: Form 1096.

Abstract: Form 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W–2G) to the IRS service centers. Under Internal Revenue Code section 6041 and related regulations, a separate Form 1096 is used for each type of return sent to the service center by the payer. It is used by IRS to summarize, categorize, and process the forms being filed.

Current Actions: There is no change to the burden previously approved.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government, and State, local or tribal governments.

Estimated Number of Respondents: 5,640,300.

Estimated Time per Respondent: 13.8 min.

Estimated Total Annual Burden Hours: 1,297,269.

The following paragraph applies to all 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 if 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.

Desired Focus of Comments: The Internal Revenue Service (IRS) 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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: May 7, 2018.

R. Joseph Durbala,

IRS Tax Analyst.

[FR Doc. 2018–10027 Filed 5–10–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Publication of the Date on Which All Amounts Deposited in the Veterans Choice Fund Will Be Exhausted

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Access, Choice, and Accountability Act of 2014, as amended, directs the Department of Veterans Affairs (VA) to publish in the **Federal Register** the date on which the Secretary will have exhausted all amounts deposited in the Veterans Choice Fund. This **Federal Register** Notice is VA's publication of this date.

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director, Policy and Planning (10D1A1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (303) 372–4629. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Veterans Access, Choice, and Accountability Act of 2014 (the Act), Public Law (Pub. L.) 113–146, as amended, section 802, established the Veterans Choice Fund to be used by the Secretary of Veterans Affairs to carry out the Veterans Choice Program established by section 101 of the Act. Pursuant to sections 101(p)(1) and (2) of the Act, the Secretary may not furnish care and services under the Veterans Choice Program after the date on which the Secretary has exhausted all amounts deposited in the Veterans Choice Fund. Section 101(p)(3) of the Act directs, not later than 30 days prior, VA to publish this date in the **Federal Register** and on an internet website of the Department available to the public. Based on current data, VA believes it will have exhausted the amount that was deposited in the Veterans Choice Fund no earlier than May 31, 2018; however, due to the unique nature of health care and the variability in health care costs, the amounts in the Fund could last as long as June 15, 2018. This information can be found on the internet at *http://www.va.gov/opa/choiceact/index.asp.* VA will update the website if it determines based on the most current information that the amounts in the Fund will be exhausted later than anticipated.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Peter M. O'Rourke, Chief of Staff, Department of Veterans Affairs, approved this document on May 7, 2018, for publication.

Dated: May 7, 2018.

Jeffrey M. Martin,

Impact Analyst, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–10058 Filed 5–10–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Friday,

No. 92 May 11, 2018

Part II

Department of the Interior

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions; Proposed Rule

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2018–0002; 189E1700D2 ET1SF0000.PSB000 EEEE500000]

RIN 1014–AA39

Oil and Gas and Sulfur Operations in the Outer Continental Shelf—Blowout Preventer Systems and Well Control Revisions

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Proposed rule.

SUMMARY: The Bureau of Safety and Environmental Enforcement (BSEE) is proposing to revise existing regulations for well control and blowout preventer systems. This proposed rule would revise requirements for well design, well control, casing, cementing, real-time monitoring (RTM), and subsea containment. These revisions modify regulations pertaining to offshore oil and gas drilling, completions, workovers, and decommissioning in accordance with Executive and Secretary of the Interior's Orders to ensure safety and environmental protection, while correcting errors and reducing certain unnecessary regulatory burdens imposed under the existing regulations. Accordingly, after thoroughly reexamining the original Blowout Preventer Systems and Well Control final rule (WCR), experiences from the implementation process, and BSEE policy, BSEE proposes to amend, revise, or remove current regulatory provisions that create unnecessary burdens on stakeholders while ensuring safety and environmental protection. The proposed regulations would also address various issues and errors that were identified during the implementation of the recent rulemaking on these issues.

DATES: Submit comments by July 10, 2018. BSEE may not fully consider comments received after this date. You may submit comments to the Office of Management and Budget (OMB) on the information collection burden in this proposed rule by June 11, 2018. The deadline for comments on the information collection burden does not affect the deadline for the public to comment to BSEE on the proposed regulations.

ADDRESSES: You may submit comments on the rulemaking by any of the following methods. Please use the Regulation Identifier Number (RIN) 1014–AA39 as an identifier in your message. See also Public Availability of Comments under Procedural Matters.

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the entry titled Enter Keyword or ID, enter BSEE–2018–0002 then click search. Follow the instructions to submit public comments and view supporting and related materials available for this rulemaking. BSEE may post all submitted comments.
- The American Petroleum Institute (API) provides free online public access to view read only copies of its key industry standards, including a broad range of technical standards. All API standards that are safety-related and that are incorporated into Federal regulations are available to the public for free viewing online in the Incorporation by Reference Reading Room on API's website at: *http://publications.api.org.*[1] In addition to the free online availability of these standards for viewing on API's website, hardcopies and printable versions are available for purchase from API. The API website address to purchase standards is: *http://www.api.org/publications-standards-and-statistics/publications/government-cited-safety-documents.*
- The International Organization for Standardization (ISO) creates documents that provide requirements, specifications/government-cited-safety documents. ISO creates documents that provide requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purposes. All ISO International Standards are available at the ISO Store for purchase, *https://www.iso.org/store.html.*
- For the convenience of members of the viewing public who may not wish to purchase copies or view these incorporated documents online, they may be inspected at BSEE's office, 45600 Woodland Road, Sterling, Virginia 20166, or by sending a request by email to *regs@bsee.gov.*
- Send comments on the information collection in this rule to: Interior Desk Officer 1014–0028, Office of Management and Budget; 202–395–5806 (fax); email: *oira_submission@omb.eop.gov.* Please send a copy to BSEE.

Public Availability of Comments—Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. In order for BSEE to withhold from disclosure your personal identifying information, you must identify any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence(s) of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

FOR FURTHER INFORMATION CONTACT: For technical questions contact Fred Brink, GOMR District Operations Support, (504) 736–2400, or by email: *OMM_DFO_DOS@bsee.gov*; for procedural questions contact Kirk Malstrom, Regulations and Standards Branch, (202) 258–1518, or by email: *regs@bsee.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

In the immediate aftermath of the *Deepwater Horizon* incident in 2010, BSEE adopted several recommendations from multiple investigation teams in order to improve the safety of offshore operations. Subsequently, BSEE published the Blowout Preventer Systems and Well Control final rule (WCR) on April 29, 2016. The WCR consolidated the equipment and operational requirements for well control into one part of BSEE's regulations; enhanced blowout preventer (BOP), well design, and modified well-control requirements; and incorporated certain industry technical standards. Most of the original WCR provisions became effective on July 28, 2016.

Although the WCR addressed a significant number of issues that were identified during the analysis of the *Deepwater Horizon* incident, BSEE recognized that BOP equipment and systems continue to improve technologically and well control processes also evolve. Therefore, since the WCR became effective in 2016, BSEE has continued to engage with the offshore oil and gas industry, Standards Development Organizations (SDOs), and other stakeholders. During the course of these engagements, BSEE identified issues and stakeholders expressed a

[1] To view these standards online, go to the API publications website at: *http://publications.api.org.* You must then log-in or create a new account, accept API's ''Terms and Conditions,'' click on the ''Browse Documents'' button, and then select the applicable category (*e.g.,* ''Exploration and Production'') for the standard(s) you wish to review.

variety of concerns regarding the implementation of the WCR. For instance, oil and natural gas operators raised concerns about certain regulatory provisions that impose undue burdens on their industry, but do not significantly enhance worker safety or environmental protection (*e.g.,* how RTM is monitored and utilized onshore, a strictly enforced 0.5ppg drilling margin, having requirements inconsistent with API Standard 53—an American National Standards Institute (ANSI) accredited, voluntary consensus standards development organization, and delays waiting for certain BSEE approvals during cementing operations). Other stakeholders suggested that certain regulatory requirements do not properly account for advances or limitations in technology and processes. Further, BSEE received numerous questions regarding the proper interpretation and application of provisions viewed to be unclear or ambiguous, requiring BSEE to provide substantial informal guidance regarding the terms of the WCR.

Accordingly, after thoroughly reexamining the original WCR, experiences from the implementation process, and BSEE policy, BSEE proposes to amend, revise, or remove current regulatory provisions that create unnecessary burdens on stakeholders while ensuring safety and environmental protection. The proposed regulatory changes also reflect BSEE's consideration of the public comments and stakeholders' recommendations pertaining to the requirements applicable to offshore oil and gas drilling, completions, workovers, and decommissioning. This proposed rulemaking would revise regulatory provisions in Subparts A, B, D, E, F, G, and Q on topics such as, but not limited to:

Notifications and submittals to BSEE;
Drilling margins;
Lift boats;
Real-time monitoring;
BSEE Approved Verification Organizations (BAVOs);
Accumulator systems;
BOP and control station testing;
Coiled tubing; and
Mechanical barriers (packers and bridge plugs).

BSEE utilized the best available and most pertinent data to analyze the economic impact of the proposed changes. That analysis indicates that the estimated overall economic impact will benefit the industry over the next 10 years because of the substantial reduction in compliance costs while ensuring safety and environmental protection.

In keeping with the Executive and Secretary's Orders, BSEE undertook a review of the 2016 Well Control Final Rule with a view toward the policy direction of encouraging energy exploration and production on the OCS and reducing unnecessary regulatory burdens while ensuring that any such activity is safe and environmentally responsible. BSEE carefully analyzed all 342 provisions of the 2016 Well Control Final Rule, and determined that only 59 of those provisions—or less than 18% of the 2016 Rule—were appropriate for revision. In the process, BSEE compared each of the proposed changes to the 424 recommendations arising from 26 separate reports from 14 different organizations developed in the wake of and response to the *Deepwater Horizon* disaster, and determined that none of the proposed changes ignores or contradicts any of those recommendations, or would alter any provision of the 2016 Well Control Final Rule in a way that would make the result inconsistent with those recommendations. Further, nothing in this proposed rule would alter any elements of other rules promulgated since *Deepwater Horizon,* including the Drilling Safety Rule (Oct. 2010), SEMS I (Oct. 2010), and SEMS II (April 2013). BSEE's review has been thorough, careful, and tailored to the task of reducing unnecessary regulatory burdens while ensuring that OCS activity is safe and environmentally responsible.

Table of Contents

I. Background
A. BSEE Statutory and Regulatory Authority and Responsibilities
B. Purpose and Summary of the Rulemaking
C. Summary of Documents Incorporated by Reference
D. New Executive and Secretary's Orders
E. Stakeholder Engagement
II. Section-by-Section Discussion of Proposed Changes
III. Additional Comments Solicited
A. BOP Testing Frequency
B. Economic Data
IV. Procedural Matters

I. Background

A. BSEE Statutory and Regulatory Authority and Responsibilities

BSEE derives its authority primarily from the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. 1331–1356a. Congress enacted OCSLA in 1953, authorizing the Secretary of the Interior (Secretary) to lease the Outer Continental Shelf (OCS) for mineral development, and to regulate oil and gas exploration, development, and production operations on the OCS. The Secretary has delegated authority to perform certain of these functions to BSEE.

To carry out its responsibilities, BSEE regulates offshore oil and gas operations to enhance the safety of exploration for and development of oil and gas on the OCS, to ensure that those operations protect the environment, and to implement advancements in technology. BSEE also conducts onsite inspections to assure compliance with regulations, lease terms, and approved plans and permits. Detailed information concerning BSEE's regulations and guidance to the offshore oil and gas industry may be found on BSEE's website at: *http://www.bsee.gov/Regulations-and-Guidance/index.*

BSEE's regulatory program covers a wide range of facilities and activities, including drilling, completion, workover, production, pipeline, and decommissioning operations. Drilling, completion, workover, and decommissioning operations are types of well operations that offshore operators [2] perform throughout the OCS. These well operations are the primary focus of this rulemaking.

B. Purpose and Summary of the Rulemaking

This proposed rule would amend and update certain provision of the Blowout Preventer Systems and Well Control regulations and update the regulations to better implement BSEE policy. This proposed rule would fortify the Administration's position towards facilitating energy dominance leading to increased domestic oil and gas production, and reduce unnecessary burdens on stakeholders while ensuring safety and environmental protection. Since 2010, BSEE has promulgated many rulemakings (*e.g.,* Safety and Environmental Management Systems (SEMS) I and II, the final safety measures rule, and the production safety systems final rule) to improve worker safety and environmental protection. Additionally, on April 29, 2016, BSEE published a final rule to consolidate into one part the equipment and operational requirements that were found in various parts of BSEE's regulations pertaining to well control for offshore oil and gas drilling, completions, workovers, and decommissioning (81 FR 25888). That final rule addressed issues relating to

[2] BSEE's regulations at 30 CFR part 250 generally apply to ''a lessee, the owner or holder of operating rights, a designated operator or agent of the lessee(s) . . . ,'' covered by the definition of ''you'' in § 250.105. For convenience, this preamble will refer to all of the regulated entities as ''operators'' unless otherwise indicated.

BOP and well-control requirements. More specifically, the final rule incorporated industry standards; adopted reforms to well design, well control, casing, cementing, real-time well monitoring, and subsea containment requirements; and implemented many of the recommendations resulting from various investigations of the *Deepwater Horizon* incident. Most of the provisions of that rulemaking became effective on July 28, 2016.

Since the time the Blowout Preventer Systems and Well Control regulations took effect, oil and natural gas operators have raised various concerns, and BSEE has identified issues during the implementation of the recent rulemaking. The concerns and issues involve certain regulatory provisions that impose undue burdens on oil and natural gas operators, but do not significantly enhance worker safety or environmental protection. BSEE understands the concerns that have been raised, but BSEE also fully recognizes that the BOP and other well-control requirements are critical components in ensuring safety and environmental protection. After thoroughly reexamining the Blowout Preventer Systems and Well Control regulations, BSEE has identified those provisions that can be amended, revised, or removed to reduce significant burdens on oil and natural gas operators on the OCS while ensuring safety and environmental protection. In keeping with the Executive and Secretary's Orders, BSEE undertook a review of the 2016 Well Control Final Rule with a view toward the policy direction of encouraging energy exploration and production on the OCS and reducing unnecessary regulatory burdens while ensuring that any such activity is safe and environmentally responsible. BSEE carefully analyzed all 342 provisions of the 2016 Well Control Final Rule, and determined that only 59 of those provisions—or less than 18% of the 2016 Rule—were appropriate for revision. In the process, BSEE compared each of the proposed changes to the 424 recommendations arising from 26 separate reports from 14 different organizations developed in the wake of and response to the *Deepwater Horizon* disaster, and determined that none of the proposed changes ignores or contradicts any of those recommendations, or would alter any provision of the 2016 Well Control Final Rule in a way that would make the result inconsistent with those recommendations. Further, nothing in this proposed rule would alter any elements of other rules promulgated since *Deepwater Horizon,* including the Drilling Safety Rule (Oct. 2010), SEMS I (Oct. 2010), and SEMS II (April 2013). BSEE's review has been thorough, careful, and tailored to the task of reducing unnecessary regulatory burdens while ensuring that OCS activity is safe and environmentally responsible.

This rulemaking would revise current regulations that impact offshore oil and gas drilling, completions, workovers, and decommissioning activities. The proposed regulations would also address various issues that were identified during the implementation of the current Blowout Preventer Systems and Well Control regulations, as well as numerous questions that have required substantial informal guidance from BSEE regarding the interpretation and application of the provisions. For example, this proposed rulemaking would:

- Clarify the rig movement reporting requirements.
- Clarify and revise the requirements for certain submittals to BSEE to eliminate redundant and unnecessary reporting.
- Clarify the drilling margin requirements.
- Revise section 250.723 by removing references to lift boats from the section.
- Remove certain prescriptive requirements for real time monitoring.
- Replace the use of a BSEE approved verification organization (BAVO) with the use of an independent third party for certain certifications and verifications of BOP systems and components, and remove the requirement to have a BAVO submit a Mechanical Integrity Assessment report for the BOP stack and system.
- Revise the accumulator system requirements and accumulator bottle requirements to better align with API Standard 53.
- Revise the control station and pod testing schedules to ensure component functionality without inadvertently requiring duplicative testing.
- Include coiled tubing and snubbing requirements in Subpart G.
- Revise the text to ensure consistency and conformity across the applicable sections of the regulations.

C. Summary of Documents Incorporated by Reference

This rulemaking would update a document currently incorporated by reference to a newer edition, and add a new standard for incorporation. A brief summary of the proposed changes, based on the descriptions in each standard or specification is provided in the text that follows.

API Standard 53—Blowout Prevention Equipment Systems for Drilling Wells

This standard provides requirements for the installation and testing of blowout prevention equipment systems whose primary functions are to confine well fluids to the wellbore, provide means to add fluid to the wellbore, and allow controlled volumes to be removed from the wellbore. BOP equipment systems are comprised of a combination of various components that are covered by this document. Equipment arrangements are also addressed. The components covered include: BOPs including installations for surface and subsea BOPs; choke and kill lines; choke manifolds; control systems; and auxiliary equipment.

This standard also provides new industry best practices related to the use of dual shear rams, maintenance and testing requirements, and failure reporting. Diverters, shut-in devices, and rotating head systems (rotating control devices) whose primary purpose is to safely divert or direct flow rather than to confine fluids to the wellbore are not addressed. Procedures and techniques for well control and extreme temperature operations are also not included in this standard.

API Standard 65–part 2, which was issued December 2010. This standard outlines the process for isolating potential flow zones during well construction. The new Standard 65–part 2 enhances the description and classification of well-control barriers, and defines testing requirements for cement to be considered a barrier.

API Recommended Practice 17H—Remotely Operated Tools and Interfaces on Subsea Production Systems

The proposed rule would update the incorporated version of this document from the First Edition (dated 2004, reaffirmed 2009) to the Second Edition (dated 2013). This recommended practice provides general recommendations and overall guidance for the design and operation of remotely operated tools (ROT) and remotely operated vehicle (ROV) tooling used on offshore subsea systems. ROT and ROV performance is critical to ensuring safe and reliable deepwater operations, and this document provides general performance guidelines for the equipment. One of the main differences between the first edition and second edition of this recommended practice is that the second edition includes provisions on high flow Type D hot stabs.

ISO ISO/IEC 17021–1—Conformity Assessment—Requirements for Bodies Providing Audit and Certification of Management Systems

The proposed rule would incorporate this standard into the regulations by

reference for the first time, for purposes of the quality management system certification requirements of section 250.730(d). This standard contains principles and requirements for the competence, consistency, and impartiality of bodies providing audit and certification of all types of management systems. It provides generic requirements for such bodies performing audit and certification in the fields of quality, the environment, and other types of management systems. Incorporation of this standard would provide clarity and consistency surrounding the critical qualifications of entities responsible for certifying quality management systems for the manufacture of BOP stacks.

When a copyrighted publication is incorporated by reference into BSEE regulations, BSEE is obligated to observe and protect that copyright. BSEE provides members of the public with website addresses where these standards may be accessed for viewing—sometimes for free and sometimes for a fee. Standards development organizations decide whether to charge a fee. One such organization, the American Petroleum Institute (API), provides free online public access to view read only copies of its key industry standards, including a broad range of technical standards. All API standards that are safety-related and that are incorporated into Federal regulations are available to the public for free viewing online in the Incorporation by Reference Reading Room on API's website at: *http://publications.api.org.*[3] In addition to the free online availability of these standards for viewing on API's website, hardcopies and printable versions are available for purchase from API. The API website address to purchase standards is: *http://www.api.org/publications-standards-and-statistics/publications/government-cited-safety-documents.*

The International Organization for Standardization (ISO) creates documents that provide requirements, specifications/government-cited-safety documents. ISO creates documents that provide requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purposes. All ISO International Standards are available at the ISO Store for purchase, *https://www.iso.org/store.html.*

For the convenience of members of the viewing public who may not wish to purchase copies or view these incorporated documents online, they may be inspected at BSEE's office, 45600 Woodland Road, Sterling, Virginia 20166, or by sending a request by email to *regs@bsee.gov.*

In addition, BSEE is aware of a published addendum to API Standard 53, and a new Standard 53 edition currently under development by API, consistent with international standards. BSEE will continue to evaluate the API addendum and the new edition. At this time, BSEE does not propose to incorporate the API Standard 53 addendum into this proposed rule. However, BSEE is considering incorporating the API Standard 53 addendum in the final rule. BSEE is specifically soliciting comments on whether the API Standard 53 addendum should be included within the documents incorporated by reference. Please provide reasons for your position. If your comment addresses anticipated monetary or operational benefits associated with using the API Standard 53 addendum, please provide any available supporting data. When the new edition of API Standard 53 is finalized by API, BSEE would consider incorporating that edition into future rulemaking as appropriate.

BSEE is also considering potential, technical (non-substantive) revisions to § 250.198 for the purposes of reorganizing and revising that section to make it clearer, more user-friendly, and more consistent with the Office of the Federal Register's (OFR) recommendations for incorporations by reference in Federal regulations. BSEE will continue to consult with OFR regarding its suggestions for specific organizational and language changes to § 250.198 and expects to address such technical revisions in a final rule as soon as possible. BSEE does not anticipate that those potential revisions would have any substantive impact on the proposed incorporations by reference of industry standards discussed in this rule.

D. New Executive and Secretary's Orders

On March 28, 2017, the President issued Executive Order (E.O.) 13783—Promoting Energy Independence and Economic Growth (82 FR 16093). The E.O. directed Federal agencies to review all existing regulations and other agency actions and, ultimately, to suspend, revise, or rescind any such regulations or actions that unnecessarily burden the development of domestic energy resources beyond the degree necessary to protect the public interest or otherwise comply with the law.

On April 28, 2017, the President issued E.O. 13795—Implementing an America-First Offshore Energy Strategy (82 FR 20815), which directed the Secretary to review the WCR for consistency with the policy set forth in section 2 of E.O. 13795, and to ''publish for notice and comment a proposed rule revising that rule, if appropriate and as consistent with law.'' To further implement E.O. 13795, the Secretary issued Secretary's Order No. 3350 on May 1, 2017, directing BSEE to review the WCR for consistency with E.O. 13795, including preparation of a report ''providing recommendations on whether to suspend, revise, or rescind the rule'' in response to concerns raised by stakeholders that the WCR ''unnecessarily include[s] prescriptive measures that are not needed to ensure safe and responsible development of our OCS resources.''

As part of its response to E.O.s 13783 and 13795, and Secretary's Order No. 3350, and in light of the requests received for clarification and revision of various provisions, BSEE reviewed the WCR and is proposing revisions to the WCR that could reduce unnecessary burdens on industry without impacting key provisions in the rule that have a significant impact on improving safety and equipment reliability.

E. Stakeholder Engagement

Implementation of the Original WCR—BSEE Questions and Answers (Q's and A's)

The Department promulgated the original ''Blowout Preventer Systems and Well Control'' final rule (WCR) in April 2016. Subsequently, during the implementation of the revised regulations, BSEE received numerous questions from stakeholders seeking clarification and guidance concerning the WCR's provisions. The questions covered a vast array of issues and spanned multiple subparts of the regulations.

BSEE reviewed each question it received and decided whether the question presented an issue that was appropriate for Bureau guidance. To the extent a question required guidance or clarification, BSEE provided a response to clarify any potentially confusing language. In addition to deciding on the appropriateness of a question for guidance, BSEE determined whether a question posed was of sufficient public interest to merit broader publication of a response. After finalizing regulatory

[3] To view these standards online, go to the API publications website at: *http://publications.api.org.* You must then log-in or create a new account, accept API's ''Terms and Conditions,'' click on the ''Browse Documents'' button, and then select the applicable category (*e.g.,* ''Exploration and Production'') for the standard(s) you wish to review.

guidance in response to a stakeholder's question, BSEE typically publishes both the question and BSEE's answer on its web page. The information, which reflects BSEE's guidance of the current regulations, may be found at: *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* BSEE has posted approximately 100 responses on the web page.

BSEE has reexamined the questions and answers pertaining to the original WCR. After careful consideration of all relevant information in the questions and answers, BSEE has determined that certain provisions of the original rule should be revised to support the goals of the regulatory reform initiative while ensuring safety and environmental protection. Additionally, BSEE's proposed revisions seek to clarify any ambiguity in the regulatory language, eliminate redundancies in the provisions, and align specific requirements more closely with relevant technical standards.

BSEE Public Forum on Well Control and Blowout Preventer Rule

To ensure a complete and thorough review of the WCR, BSEE has solicited input from interested parties to identify potential revisions to the rule that would significantly reduce regulatory burdens without significantly reducing safety and environmental protection on the OCS. BSEE held a public forum on September 20, 2017, in Houston, Texas. More than 110 participants attended and provided comments and suggestions. A summary of registrants included:

- Federal agencies;
- Media;
- Oil and gas companies;
- Classification societies;
- Trade associations;
- Environmental groups; and
- Equipment manufacturers.

Additionally, there were eight presentations made at the forum. These presentations are available at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule/public%20forum.*

II. Section-by-Section Discussion of Proposed Changes

BSEE is proposing to revise the following regulations:

Subpart A—General

Documents Incorporated by Reference (§ 250.198)

BSEE would revise paragraph (h)(63), which incorporates API Standard 53, Blowout Prevention Equipment Systems for Drilling Wells, Fourth Edition, November 2012, to add a new cross reference to § 250.734. The changes to this paragraph are administrative and merely reflect substantive changes made to § 250.734, addressed further at the corresponding location in the section-by-section discussion.

BSEE would revise paragraph (h)(78), which incorporates API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction; Second Edition, December 2010, to add a new cross reference to § 250.420(a)(6). The changes to this paragraph are administrative. For discussion of the effects on the regulatory requirements of incorporating this document, refer to § 250.420(a)(6).

BSEE would also revise paragraph (h)(94) to update the incorporation of API RP 17H to the second edition. The changes to this paragraph are administrative. For discussion of the effects on the regulatory requirements of incorporating this document, refer to § 250.734(a)(4). BSEE has reviewed the differences between the first and second editions of API RP 17H. The API RP 17H second edition was mostly rearranged to clarify and consolidate similar topics covered in the first edition. The second edition now includes the following sections: Subsea intervention concepts, subsea intervention systems design recommendations, ROV interfaces, materials, subsea markings, and validation and verification. These sections are mostly a reorganization of the content of the first edition with minor changes to the design recommendations. The most significant change from the first edition to the second edition was the addition of the Type D connection to the ROV interface section. The Type D connection is intended for large bore, high circulation capabilities and is limited to the maximum rated pressure of 5,000 psi. This Type D connection allows the ROV hot stab to meet the API Standard 53 closing timing requirements, which API RP 17H first edition did not accomplish.

BSEE would add new paragraph (m)(2) for the International Organization for Standardization (ISO) 17021 to update the erroneous standard incorporated in the original WCR. For discussion of the effects on the regulatory requirements of incorporating this document, refer to § 250.730(d) and the associated section-by-section discussion.

Subpart B—Plans and Information

What must the DWOP contain? (§ 250.292)

This rulemaking would revise paragraph (p) by clarifying the free standing hybrid riser (FSHR) requirements and removing the requirement for certification of the tether system and connection accessories by an approved classification society or equivalent. Based on BSEE experience during the implementation of the original WCR, these revisions to paragraph (p) would clarify the focus of the requirements for FSHR systems that involve a buoyancy air can suspended from the top of the riser, regardless of the manner of connection, to avoid confusion over whether a specific component type would be considered 'critical' or not. The requirements in existing § 250.292(p)(2) and (p)(3) would be removed because the detailed information specified on the FSHR design, fabrication, installation, and load cases is already required by the relevant portions of the platform verification program (PVP) in § 250.910(b), and in §§ 250.1002(b)(5) and 250.1007(a)(4)(ii). This would reduce the burden on operators by eliminating the requirement to submit the same or very similar information on an FSHR system through more than one regulatory permitting process. Section 250.292 paragraphs (p)(4) and (p)(5) would be redesignated as § 250.292 paragraphs (p)(2) and (p)(3), and their language would be revised to align with the clarification in paragraph (p). The requirements in § 250.292(p)(6) would be removed altogether, because they are duplicative of the certification that any permanent pipeline riser installation and its tensioning systems will undergo via the Certified Verification Agent (CVA) requirements of § 250.911, in connection with the PVP.

Subpart D—Oil and Gas Drilling Operations

What must my description of well drilling design criteria address? (§ 250.413)

This rulemaking would add in paragraph (g) a parenthetical clarification of ''surface and downhole'' after ''proposed drilling fluid weights'', to ensure the operator includes the weight of the drilling fluid in both places. This clarifies the information the operator has previously been required to provide, without adding a new burden, and improves the safety of the drilling operation by ensuring the drilling fluid weight is fully evaluated and appropriate for the estimated bottom hole pressures.

What must my drilling prognosis include? (§ 250.414)

This proposed rule would revise paragraph (c)(3) of this section to add

the words ''and analogous'' before ''well behavior observations'' and '', if available'' at the end of paragraph (c)(3) of this section. This minor wording change would ensure that operators use available data from wells with similar conditions as the well being drilled when determining the pore pressure and fracture gradient to ensure accuracy and safety when establishing the drilling margin. BSEE is specifically soliciting comments about the effectiveness of the use of related analogous data and how the pore pressure and fracture gradient are determined without related analogous data. Please provide reasons for your position.

In the proposed rule text, the drilling margin requirements are mostly unchanged. The current regulations allow for a deviation from the default 0.5 pound per gallon (ppg) drilling margin. The deviation does not have to be submitted as an alternate procedure or departure request; rather, it may be submitted with the Application for Permit to Drill (APD) along with the supporting justifications. BSEE is currently approving margins other than 0.5 ppg based on specific well conditions. BSEE is working to provide consistent approval throughout the regions and districts, and, as described more fully below, BSEE is specifically soliciting comments about the process to deviate from the 0.5 ppg drilling margin.

The purpose of the drilling margin is to ensure that the drilling fluid weight used allows for some variability in the pore pressure and fracture gradient, ensuring the safety of drilling operations. In 2011, the National Academy of Engineering and National Research Council of the National Academies recommended that ''[d]uring drilling, rig personnel should maintain a reasonable margin of safety between the equivalent circulating density and the density that will cause wellbore fracturing.'' Macondo Well *Deepwater Horizon* Blowout—Lessons for Improving Offshore Drilling Safety (NAE Report), Recommendation 2.2 (p. 43). The NAE Report stated further that ''until a reasonable standard is established, industry should design the ECD [equivalent circulating density] so that the difference between the ECD and the fracture mud weight is a minimum of 0.5 ppg . . . Additional evaluations and analyses should be performed to establish an appropriate standard for this margin of safety.'' *Id.* The Department's 2011 joint investigation team report (DOI JIT Report) regarding the causes of the April 20, 2010, Macondo Well blowout recommended that BSEE define the term ''safe drilling margin(s)'' and that such a definition should ''encompass pore pressure, fracture gradient and mud weight.'' The Bureau of Ocean Energy Management, Regulation and Enforcement Report Regarding the Causes of the April 20, 2010, Macondo Well Blowout (DOI JIT Report), Recommendation 3 (p. 202). Thus, the NAE Report and the DOI JIT Report recommended additional evaluations, analyses, and definition of what a safe drilling margin is. In the 2016 final well control rule preamble, BSEE cited this JIT Report recommendation and the bureau's prior typical reliance on a minimum of 0.5 ppg below the lower casing shoe pressure integrity test or the lowest estimated fracture gradient as an appropriate safe drilling margin and as the basis for including this as the default requirement in the current section 250.414(c). 81 FR 25888, 25894 (April 29, 2016). Section 250.414(c) also allows for using an equivalent downhole mud weight, provided that the operator submitted adequate documentation justifying the use of an alternative equivalent downhole mud weight.

Since the WCR became effective, BSEE's records show that there have been 305 wells drilled. Of those wells, BSEE has approved operators' use of drilling margins that are less than 0.5 ppg for 32 wells, 31 of which were in deep water. Even though these 32 wells represent only 10 percent of the total wells drilled in that time frame, the number is significant enough for BSEE to consider whether it should further refine the approach it is taking in the current regulations or whether it should adhere to its practice of identifying a specific drilling margin with an avenue for allowing operators to submit adequate documentation justifying the use of a different drilling margin, such as risk modeling data, off-set well data, analog data, and seismic data.

The Explanatory Statement for the 2017 Consolidated Appropriations Act, Public Law 115–31 (May 5, 2017), also recommended that BSEE consider revising the 2016 WCR. It stated:

> *Blowout Preventer Systems and Well Control Rule.*—The Committees encourage the Bureau to evaluate information learned from additional stakeholder input and ongoing technical conversations to inform implementation of this rule. To the extent additional information warrants revisions to the rule that require public notice and comment, the Bureau is encouraged to follow that process to ensure that offshore operations promote safety and protect the environment in a technically feasible manner.

163 Cong. Rec. H3881 (daily ed. May 3, 2017).

For these reasons, BSEE is requesting comment and further statistical analysis from stakeholders about whether the 0.5 ppg drilling margin in this proposed rule should be revised or removed. BSEE solicits comments on alternatives to the current set 0.5 ppg drilling margin. Specifically, BSEE requests comment on replacing it with a more performance-based standard under which the approved safe drilling margin is established on a case-by-case basis for each well, based on data and analysis particular to that well, through the permitting process. BSEE also requests comment on potentially providing for a different drilling margin or multiple drilling margins that are specific to the conditions in which the wells are drilled, such as if the well is drilled in deep water or shallow water. BSEE further requests comment on whether removal of a specific reference to a 0.5 ppg standard from the regulation may be appropriate. For example, the standard establishes a prescriptive margin without an in-depth analysis of appropriate margins for potential hole sections, which must take into account factors, such as cutting loads, equivalent downhole mud weight, and fluid temperatures and pressures. Further, enforcing a prescriptive minimum margin can force operators to encroach on pore pressure, which might result in unintended kicks. These types of considerations may suggest that a more case-by-case approach toward the establishment of appropriate safe drilling margins for particular wells through the permitting process would be preferable. Consequently, BSEE specifically solicits comments regarding the potential removal of the specific reference to a 0.5 ppg drilling margin from § 250.414(c) and its replacement with a more performance based, case-by-case standard for the establishment of appropriate safe drilling margins through the well permitting process.

BSEE also requests comment on the criteria that BSEE could use to apply alternative approaches, such as an operator demonstrating that a well is a development well as opposed to an exploratory well. To utilize this alternative option, the rulemaking could specify what documentation operators would need to submit with the APD in order to provide adequate justification. BSEE requests comment on what supplemental data would provide an adequate level of justification for deviating from the 0.5 ppg drilling margin under identified circumstances, such as requiring the submission of

offset well data, analog data, seismic data, and decision modeling.

BSEE also requests comment on whether there are situations where drilling can continue prior to receiving alternative safe drilling margin approval from BSEE. BSEE requests comment on (1) whether there are situations where, despite not being able to maintain the approved safe drilling margin, an operator's continued drilling with an alternative drilling margin creates little risk; (2) the criteria that BSEE should use to define those situations and the available alternative drilling margins; and (3) what level of follow-up reporting (*e.g.* submitting a follow-up notice to BSEE within a specified time frame) would be appropriate. Such an approach could provide assurance that an operator, with the appropriate level of justification, could continue to drill as real time data is evaluated, and would largely be designed to add more clarity to the existing option(s) provided by § 250.414(c)(2). This would provide a proactive approach to managing risk and ensuring safe operations, while also providing increased investment certainty for the regulated community.

In addition, BSEE could add the words ''and analogous'' before ''well behavior observations'' and '', if available'' at the end of paragraph (c)(3) of this section. This minor wording change could ensure that operators use available data from wells with similar conditions as the well being drilled when determining the pore pressure and fracture gradient to ensure accuracy and safety when establishing the drilling margin. BSEE is specifically soliciting comments about the effectiveness of the use of related analogous data and how the pore pressure and fracture gradient are determined without related analogous data. Please provide reasons for your position.

What well casing and cementing requirements must I meet? (§ 250.420)

BSEE is proposing to incorporate by reference API Standard 65–Part 2 in paragraph (a)(6) of this section for purposes of defining the standards governing centralization. This would clarify the intent of the current centralization requirements by adopting the methods described in API Standard 65–Part 2 to ensure proper centralization during cementing. BSEE would add the reference to API Standard 65–Part 2 based upon its evaluation of the original WCR implementation and industry's recent questions concerning the applicability of this standard. Centralization is important for cement jobs, as it ensures the casing is centered in the hole and that there is enough space between the casing and the wellbore for the cement to form a uniform barrier to help minimize the risk of cement failure. BSEE has determined that the standards set forth in API Standard 65–Part 2 properly ensure adequate centralization and provide clearer guidelines for operators than the current regulatory language.

What are the casing and cementing requirements by type of casing string? (§ 250.421)

BSEE proposes to make minor revisions in paragraphs (c), (d), (e), and (f) clarifying that all length requirements are to be taken from measured depth. This clarification of the existing regulatory requirements would provide consistency for planning and permitting purposes.

Paragraph (f) would also be revised by removing the specifics of the listed example regarding when a liner is used as intermediate casing. The example is redundant because it restates the same information already contained in this section. This deletion would not change the applicability or substance of the requirements.

What are the requirements for casing and liner installation? (§ 250.423)

This rulemaking would revise paragraphs (a) and (b) by removing the words ''and cementing'' after ''upon successfully installing''. Revisions to this section are necessary because there are many situations in the design of the casing or liner string running tool where the latching or lock down mechanism is automatically engaged upon installing the string. BSEE has received many alternate procedure requests to accommodate these situations since publication of the original WCR. This change would not impact safety because BSEE is still requiring these mechanisms to be engaged upon successful installation of the casing or liner. The proposed change would allow more flexibility on an operational case-by-case basis in determining the appropriate time to engage these mechanisms and would also reduce the number of alternate procedure requests submitted to BSEE for approval.

What must I do in certain cementing and casing situations? (§ 250.428)

BSEE is proposing to revise paragraph (c) to include the term ''unplanned'' when describing the lost returns that provide indications of an inadequate cement job. This revision would minimize the number of unnecessary revised permits submitted to BSEE for approval. Current cementing practices utilize improved well modelling to identify and account for zones that may have anticipated losses. It is unnecessary to submit a revised APD to address lost returns for a well cementing program that has been designed for those occurrences. Any unexpected losses would require locating top of cement and determining whether the cement job is adequate.

Existing paragraph (c)(iii) would be redesignated as paragraph (c)(iv). A new paragraph (c)(iii) would be added to allow the use of tracers in the cement, and logging the tracers' location prior to drill out, as an alternative approach for locating the top of cement. The original WCR did not address this approach, however based upon BSEE experience this addition would provide more viable options and flexibility for locating top of cement to help minimize rig down time running in and out of the hole multiple times, without compromising safety.

Paragraph (d) would be revised to clarify that, if there is an inadequate cement job, operators are required to comply with § 250.428(c)(1). The original WCR did not address this provision, however based upon BSEE experience this revision would help assess the overall cement job to allow for improved planning of remedial actions.

This rulemaking would also revise paragraph (d) to allow the preapproval of remedial cementing actions through a contingency plan within the original approved permit; however, if the remedial actions have not already been approved by BSEE, clarification was added directing submittal of the remedial actions in a revised permit for BSEE review and approval. The original WCR did not address this provision, however based upon BSEE experience, BSEE is proposing to allow the remedial actions to be included as contingency plans in the original permit to minimize the time necessary for operators to commence approved remedial cementing actions, and to reduce burdens on operators and BSEE from multiple submissions. If BSEE has already approved the remedial cementing actions in the original permit, additional BSEE approval is not required unless they deviate from the approved actions. BSEE will still receive information regarding any remedial cementing actions taken in Well Activity Reports.

Based upon BSEE experience with the implementation of the original WCR, BSEE has determined that allowing the professional engineer (PE) to certify the remedial cementing actions in the contingency plan within the original permit would help streamline the

permitting process and reduce delays to remedial actions without compromising safety. The proposed revision to this paragraph would eliminate the requirement for a PE certification for any changes to the well program so long as the changes were already approved in the permit. This would result in less rig down time waiting for PE certifications before beginning initial remedial actions. In conjunction with the approval of the remedial actions BSEE requires a PE certification for any changes to the well program. These proposed revisions would minimize the number of revised permits submitted to BSEE for approval, reducing burdens on operators and BSEE.

What are the diverter actuation and testing requirements? (§ 250.433)

This rulemaking would revise paragraph (b) to modify requirements for subsequent diverter testing by allowing partial activation of the diverter element and not requiring a flow test. The original WCR did not address this provision, however based upon BSEE experience these changes would codify longstanding BSEE policy and minimize the number of alternate procedure requests submitted to BSEE. Full actuation of the diverter element and flow tests are unnecessary with subsequent testing because partial actuation of the element sufficiently demonstrates functionality of the element, and a full flow test would be originally verified on the initial test. These changes would also help minimize the possibility of accidental discharge of mud overboard.

What are the requirements for directional and inclination surveys? (§ 250.461)

This proposed rule would revise paragraph (b) by extending the maximum permitted survey intervals during angle-changing portions of directional wells from 100 feet to 180 feet. This would account for the majority of the pipe stand lengths and would address developments that BSEE has needed to accommodate through alternative approvals since before the original WCR. Most rigs have upgraded the derrick height to account for the increase in pipe stand lengths to improve drilling efficiency. The pipe stands have routinely become greater than 100 feet, with some pipe stands being as high as 180 feet. Increasing the survey interval to correlate with the now common pipe stand lengths would help improve rig efficiency while drilling. This revision would also minimize the number of alternate procedure requests submitted to BSEE in APDs. BSEE does not expect these revisions to reduce safety because of the rationale previously stated. BSEE currently, when appropriate, approves survey intervals based on the use of such pipe stand lengths through the alternate procedure request and approval process. These revisions would not result in any real changes in current survey operations, only removing the added process of operators submitting for approval an alternate procedure to use surveys associated with 180 foot pipe stand lengths.

What are the source control, containment, and collocated equipment requirements? (§ 250.462)

Paragraph (b) of this section would be revised to clarify that the source control and containment equipment (SCCE) to which operators need to have access is based on the determinations regarding source control and containment capabilities required in § 250.462(a), and that the identified list of equipment represents examples of the types of SCCE that may be determined appropriate rather than universal requirements. Based upon BSEE experience with the implementation of the original WCR, this revision would help ensure that appropriate SCCE is available for the specific corresponding well rather than requiring every possible type of SCCE regardless of the well-specific determinations.

Paragraph (e)(1)(ii) would be revised to remove ''a BSEE approved verification organization'' and replace it with ''an independent third party'' that meets the requirements of § 250.732(b). For a discussion on the changes from a BAVO to an independent third party, see the section-by-section discussion of § 250.732.

Proposed revisions to paragraph (e)(3) would clarify that subsea utility equipment utilized solely for containment operations must be available for inspection at all times. Paragraph (e)(4) would also be revised to clarify that it is applicable only to collocated equipment identified in the Regional Containment Demonstration (RCD) or Well Containment Plan and not all collocated equipment. The proposed revisions to both paragraphs (e)(3) and (e)(4) would help ensure that the applicable respective equipment is available for inspection. BSEE recognizes that some of the equipment used for containment is used for other types of operations on the OCS and would be available for inspection when in use during other well operations.

Subpart E—Oil and Gas Well-Completion Operations

Tubing and Wellhead Equipment (§ 250.518)

This rulemaking would revise paragraph (e)(1) by clarifying that only permanently installed packers or bridge plugs that are qualified as mechanical barriers are required to comply with ANSI/API Spec. 11D1. Based upon BSEE experience with the implementation of the original WCR, including questions BSEE received from operators, this revision would codify BSEE's policy to ensure that the required mechanical barriers in a well are held to a higher standard than other common packers or bridge plugs used for various other well-specific conditions and completions design. Furthermore, BSEE is aware that certain packers and bridge plugs cannot meet the specifications of ANSI/API Spec. 11D1. BSEE does not expect these revisions to reduce safety. The proposed change would ensure that the packers and bridge plugs utilized as required mechanical barriers are ANSI/API Spec. 11D1 compliant, while eliminating the need for packers and plugs used for other, non-critical, purposes to meet the standard.

What are the requirements for casing pressure management? (§ 250. 519)

BSEE would make minimal revisions to this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

How do I manage the thermal effects caused by initial production on a newly completed or recompleted well? (§ 250.522)

BSEE would make minimal revisions to this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

When am I required to take action from my casing diagnostic test? (§ 250.525)

BSEE would make minimal revisions to paragraph (d) of this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

What do I submit if my casing diagnostic test requires action? (§ 250.526)

BSEE would make minimal revisions to this section to update incorrect citations. These revisions are

administrative in nature and ensure that the appropriate citations are correctly cross referenced.

What if my casing pressure request is denied? (§ 250.530)

BSEE would make minimal revisions to paragraph (b) of this section to update incorrect citations. These revisions are administrative in nature and ensure that the appropriate citations are correctly cross referenced.

Subpart F—Oil and Gas Well-Workover Operations

Definitions (§ 250.601)

This rulemaking would revise the definition of routine operations in this section to make it consistent with the definition of routine operations in § 250.105 by adding paragraph (m) ''acid treatments.'' The original WCR did not address this provision, however based upon BSEE experience, this revision is necessary to help minimize confusion about the definition of routine operations.

Coiled tubing and snubbing operations (§ 250.616)

This section would be removed and reserved. The content of this section would be moved to proposed § 250.750, with minor revisions discussed in connection with that provision. These revisions would help BSEE eliminate inconsistencies between similar requirements throughout different BSEE subparts by consolidating those requirements into Subpart G which is applicable to drilling, completions, workovers, and decommissioning operations.

Tubing and wellhead equipment (§ 250.619)

This rulemaking would revise paragraph (e)(1) by clarifying that only permanently installed packers or bridge plugs that are qualified as mechanical barriers are required to comply with ANSI/API Spec. 11D1. This revision would codify BSEE's policy developed since the WCR, to ensure that the required mechanical barriers in a well are held to a higher standard than other common packers or bridge plugs used for various well specific conditions and completions design. Furthermore, BSEE is aware that certain packers and bridge plugs cannot meet the specifications of ANSI/API Spec. 11D1. BSEE would also add that operators must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree or well control equipment. This addition would codify existing BSEE policy and add into the workover regulations in Subpart F requirements about mechanical barriers similar to those already found in § 250.720(a). This addition would help ensure the well is properly secured before removal of the tree or well control equipment.

Subpart G—Well Operations and Equipment

What rig unit movements must I report? (§ 250.712)

BSEE proposes to revise this section by adding new paragraphs (g) and (h). BSEE would add paragraph (g) to clarify that reporting is not necessary for rig movements to and from the safe zone during permitted operations. BSEE would also add paragraph (h) to clarify that, if a rig unit is already on a well, BSEE would not require a notification for any additional rig unit movements on that well. This change would not impact safety because BSEE would still receive initial rig movement notifications and would be aware of rig unit locations. The original WCR did not address this provision, however based upon BSEE experience, BSEE determined that these clarifications would minimize the number of duplicative rig movement notifications submitted to BSEE under these particular circumstances.

When and how must I secure a well? (§ 250.720)

BSEE proposes to revise paragraph (a)(1) to add an impending National Weather Service-named tropical storm or hurricane to the list of example events that would interrupt operations and require notification. Furthermore, BSEE also proposes to add new paragraph (a)(3) to include provisions for testing the applicable BOP or lower marine riser package (LMRP) upon relatch according to § 250.734 paragraphs (b)(2) or (b)(3), respectively, and obtaining BSEE approval before resuming operations. Based upon BSEE experience with the implementation of the original WCR and longstanding policy, these revisions would codify the BSEE storm policy reflected in longstanding guidance and provide clarity for testing when an operator has returned to the location and relatched the BOP or LMRP. These tests help confirm that the BOP or LMRP is properly functional prior to resuming operations after being unlatched due to a storm or other interruption.

This rulemaking would also add new paragraph (d) requiring equipment and capabilities for well intervention. This addition would specify that equipment used solely for well intervention must be readily available for use, maintained in accordance with applicable original equipment manufacturer (OEM) recommendations, and available for inspection by BSEE upon request. BSEE would add this paragraph to ensure that when intervention is necessary on a well, the applicable tools (such as the tree interface tools) are available and ready for their intended use. BSEE is aware of recent instances where intervention was necessary on a particular subsea tree, and the tree-specific unique interface tools were not available to perform the work on that well, delaying the operations.

What are the requirements for prolonged operations in a well? (§ 250.722)

BSEE is proposing to revise the prolonged operations well casing reporting requirements in paragraph (a)(2) of this section to clarify that District Manager approval is not required to resume operations if a successful pressure test was conducted as already approved in the applicable permit. BSEE would also clarify that the successful pressure test results must be documented in the Well Activity Report (WAR). The original WCR did not address the issue of District Manager approval, however based upon BSEE experience, these revisions would minimize the amount of unnecessary rig operational time waiting for separate BSEE approval of the successful pressure test where BSEE has already approved the relevant testing and streamline BSEE approval of associated operations. These revisions would be applicable only if the actions are appropriately planned for and already approved in the associated permit. The pressure tests are conducted to help verify casing integrity. BSEE would also make a minor revision to this paragraph to provide that the calculations are used to ''indicate'' not ''show'' that the well's integrity is above the minimum safety factors. This change is necessary because the calculations do not guarantee or ''show'' integrity; they are used as a way to help determine well integrity. Using the word ''indicate'' removes the definitive statement or assumption that the calculations demonstrate well integrity. BSEE does not expect these revisions to decrease safety because, by approving the test pressure described in the APD, BSEE has determined that any test that successfully meets the pre-approved test pressure for that casing design is sufficient. Therefore, requiring an additional, subsequent approval of the test results before operations may be resumed is redundant and unnecessary and does not improve safety. BSEE will

be notified of the test results through the reporting requirements of the WAR.

What additional safety measures must I take when I conduct operations on a platform that has producing wells or has other hydrocarbon flow? (§ 250.723)

This rulemaking would revise this section by removing the phrase ''or lift boat.'' This revision would mostly impact paragraph (c)(3) which requires a shut-in of all producible wells located in the affected wellbay when a lift boat moves within 500 feet of the platform until the lift boat is secured in place and ready to begin operations. Removing the references to lift boats from these requirements would minimize the number of unnecessary well shut-ins and delayed production. Since the original WCR, BSEE reevaluated the lift boat activities, and determined that the vast majority of lift boats used on the OCS are relatively small when compared to the size of a mobile offshore drilling unit (MODU) and would not have the same operational impacts and potential risks as a MODU. BSEE is considering the effects of the size of lift boats for potential future rulemakings, and may gather additional information and provide guidance on a case-by-case basis for any lift boats comparable in size to a MODU.

What are the real-time monitoring requirements? (§ 250.724)

This rulemaking would revise this section by removing many of the prescriptive real-time monitoring requirements and moving towards a more performance-based approach. BSEE would still require the ability to gather and monitor real-time well data using an independent, automatic, and continuous monitoring system capable of recording, storing, and transmitting data for the BOP control system, the well's fluid handling system on the rig, and the well's downhole conditions with the bottom hole assembly tools (if any tools are installed). Based upon BSEE's evaluation of RTM since the publication of the original WCR, BSEE determined that the prescriptive requirements for how the data is handled may be revised to allow company-specific approaches to handling the data while still receiving the benefits of RTM. BSEE is specifically soliciting comments if there are alternative ways to meet RTM provisions or if there are alternative means to meet the purposes of RTM. BSEE would completely remove existing paragraph (b) with its associated prescriptive requirements, and redesignate existing paragraph (c) as paragraph (b), with minor revisions to shift certain prescriptive elements to be more performance-based. BSEE would continue to require the items discussed in existing paragraph (c) in an RTM plan. BSEE expects operators to explain how they would carry out the requirements of the RTM plan on an individual company basis. BSEE revised this section to outline the RTM requirements and allow the operators to determine how they would fulfill those requirements.

BSEE is specifically soliciting comments about the appropriateness of utilizing RTM for workover, completion, and decommissioning operations, or whether RTM requirements should be limited to drilling operations. Please provide reasons for your position and any applicable associated data.

What are the general requirements for BOP systems and system components? (§ 250.730)

BSEE proposes to revise paragraph (a) by removing ''excluding casing shear'' and replacing ''at all times'' with ''in the event of flow due to a kick.'' Based upon BSEE experience with the implementation of the original WCR, BSEE is removing the phrase ''excluding casing shear'' because it is not necessary in this context. The requirements of this sentence are applicable to the entire BOP system, including the casing shear. BSEE expects the BOP system as a whole to be capable of closing and sealing the wellbore. BSEE also proposes to clarify that the BOP system must be able to close and seal the wellbore in the event of flow due to a kick. BSEE would make this change to codify BSEE guidance on the original WCR posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* BSEE understands mechanical and operational design limits of equipment and expects operators to ensure ram closure time and sealing integrity before exceeding those operational and mechanical limits.

Paragraph (b) would be revised to clarify that BSEE expects the use of ''applicable'' OEM recommendations for the design, fabrication, maintenance, and repair of BOP systems, as well as personnel training in their use. The proposed revision to include ''applicable'' is necessary because some OEMs may not have specific recommendations for every item required by this paragraph. BSEE expects operators to follow OEM recommendations to the extent relevant recommendations exist.

This rulemaking would also revise the failure reporting requirements in paragraph (c) to codify BSEE guidance and current practice. The failure reporting references to American National Standards Institute (ANSI)/API Specs 6A and 16A would be removed because the failure reporting process outlined in those standards is redundant to API Standard 53 and the remaining requirements of this section. Revisions to this paragraph would include clarification on submitting failure data and reports to BSEE, unless BSEE has designated a third party to collect the data and reports, and ensuring that an investigation and failure analysis are started within 120 days. BSEE reevaluated the timeframes set forth in the original WCR regarding performing the investigation and failure analysis and determined that certain operations would not be able to meet the original timeframes. Accordingly, BSEE proposes to require that the investigation and failure analysis be started within 120 days of the failure. BSEE would then provide a 120 day timeframe to complete the investigation and failure analysis once they have started.

Based upon the unknown situations that could arise around the completion of the failure analysis and availability of the equipment, BSEE is specifically soliciting comments about whether specifying a completion date for the failure analysis is appropriate and if so whether 120 days from the commencement of the analysis is appropriate. Please provide reasons for your position and any applicable associated data.

BSEE proposes to add new paragraph (c)(4) to explain that BSEE may designate a third party to collect failure data and reports on behalf of BSEE, and failure data and reports must be sent to the designated third party. The changes regarding submittal of the reports to BSEE or designated third party would codify BSEE guidance on the original WCR posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

BSEE is currently using *www.SafeOCS.gov* as the designated third party. Reporting instructions are on the SafeOCS website at: *www.SafeOCS.gov.* Reports submitted through *www.SafeOCS.gov* are collected and analyzed by the Bureau of Transportation Statistics (BTS) and protected from release under the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), which permits BTS to confidentially

handle and store reported information.[4] Information submitted under this statute also is protected from release to other government agencies, Freedom of Information Act (FOIA) requests, and certain records requests.

BSEE also proposes to revise paragraph (d) by removing the reference to an incorrect document incorporated by reference and replacing it with the correct document incorporated by reference. The original WCR requires that BOP stacks must be manufactured pursuant to a quality management system certified by an entity that meets the requirements of ISO 17011. The correct reference is ISO 17021. This was an error in the original WCR, and BSEE would make this correction in keeping with the WCR guidance posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule*

What information must I submit for BOP systems and system components? (§ 250.731)

This rulemaking would revise the information submitted to BSEE pursuant to paragraph (a)(5) by replacing ''to achieve an effective seal of each ram BOP'' with ''to close each ram BOP.'' This revision would affect information submitted to BSEE and, based upon BSEE experience with the implementation of the original WCR, would more accurately reflect the control system and regulator control setting requirements of API Standard 53. BSEE does not expect these revisions to decrease safety. BSEE has determined that these revisions would be adequate to meet the API Standard 53 requirements for control systems to ensure that each ram BOP can be effectively sealed, as the original WCR language intended.

This section would also be revised by removing the BAVO verification requirements in existing paragraphs (d) and (f). The BAVO verifications required by existing paragraphs (d)(1) and (d)(3) were redundant to the verifications required by paragraph (c); however, the verifications required by current paragraph (d)(2) are still necessary and BSEE therefore proposes to add them to revised paragraph (c). BSEE proposes to remove paragraph (f) because the Report that is the subject of that paragraph is proposed for elimination in connection with proposed revisions to § 250.732(d) (see section-by-section discussion of that provision for further explanation). The independent third party verifications under paragraph (c) help ensure that the BOP is fit for service at each specific well. BSEE proposes to revise this section by replacing references to a BAVO with references to an independent third party that meets the requirements of § 250.732(b). For a discussion of the proposed shift from BAVOs to independent third parties, see the section-by-section discussion of § 250.732.

What are the independent third party requirements for BOP systems and system components? (§ 250.732)

BSEE proposes to completely revise this section by removing all references to a BAVO and, where appropriate, replacing those references with an independent third party. This change would also be made in appropriate locations throughout subpart G where BAVOs are referenced, as noted throughout the applicable section-by-section discussions. This change would not impact safety because independent third parties have been utilized as a long-standing industry practice to carry out certifications and verifications similar to those which a BAVO would do. BSEE expected most of the companies or individuals currently being used as independent third parties to apply to become a BAVO. Since the publication of the original WCR, BSEE has increased its interaction with the independent third parties to better understand how they operate and carry out certifications and verifications. BSEE has determined that, if as expected the majority of BAVOs would be drawn from the existing independent third parties who would continue to conduct the same verifications, additional BSEE oversight and submittal to become a BAVO would be unnecessary and the BAVO system implemented by the WCR would increase procedural burdens and costs without giving rise to meaningful improvements to safety or environmental protection. If BSEE becomes aware of any performance issues with an independent third party, there are still options for BSEE to address the issues (*e.g.,* through a SEMS audit, or verifications through the permitting process). Based upon the BSEE determination to remove the BAVOs, BSEE would revise the section heading to reflect the change from a BAVO to an independent third party, remove paragraphs (a)(1) and (a)(3), and replace all remaining BAVO references with references to an independent third party. The independent third party qualifications in existing paragraph (a)(2) would remain in this section as new paragraph (b).

This proposed rule would remove the requirements to verify that testing was performed on the outermost edges of the shearing blades of the shear ram positioning mechanism, found in current paragraph (b)(1)(iv). This would align the verification requirements with BSEE's proposal to remove the centering mechanism required in existing § 250.734(a)(16) that is the subject of this verification (see section-by-section discussion of § 250.734 for discussion of those changes). BSEE does not expect this revision to decrease safety since it simply aligns this testing requirement with the proposed change to § 250.734(a)(16). As explained in connection with that proposed change, BSEE believes that, since newer shearing blades can center pipe, it is unnecessary to require a pipe centering mechanism. In addition, the shear rams are capable of shearing along the entire blade surface area without specifically requiring testing on the outermost edges. BSEE also proposes to remove from existing paragraph (b)(1)(i) a vestigial reference to a compliance deadline that has already passed. This is merely an administrative revision.

BSEE would also revise existing paragraph (b)(2)(ii) to proposed paragraph (a)(2)(ii) by changing the testing facilities' verification pressure testing hold time demonstration from 30 minutes to 5 minutes. This revision would allow the continued use of the established historical data to help verify the pressure holding time. BSEE is proposing to revise this paragraph after consideration and reevaluation of the original WCR and historical data along with the longstanding successful practical application of that data. BSEE does not expect this revision to decrease safety because the shear ram testing timeframes of five minutes in a lab have been well established, and BSEE believes the historical data indicates that five minutes is adequate to demonstrate effective sealing. BSEE has increased its interaction with testing facilities and is continuing to evaluate any additional testing protocols. BSEE will continue to interact with testing facilities to ensure that new protocols or test data do not show a need for a longer test period.

BSEE also proposes to make a minor revision to paragraph (c) to update an incorrect citation—the referenced definition of High Pressure High Temperature (HPHT) environments is found in § 250.804(b) rather than § 250.807(b), as stated in the current regulations. This revision is administrative in nature and ensures

[4] OMB defines BTS as one of 14 CIPSEA statistical agencies; BSEE is not a CIPSEA statistical agency. (''Implementation Guidance for [CIPSEA]''); 72 FR 33362 at 33368 (June 15, 2007).

that the appropriate citations are correctly cross referenced.

With the removal of the BAVO references, BSEE is also proposing to remove the mechanical integrity assessment (MIA) report requirements from paragraph (d). This MIA report was a function of the BAVO. Based on discussions regarding the MIA report after publication of the original WCR, BSEE determined that the information contained within the MIA report was redundant with the BOP equipment capability verifications required by § 250.731. The independent third party verifications in § 250.731 help ensure that the BOP systems have the appropriate capabilities and are fit for service for a specific well and location.

What are the requirements for a surface BOP stack? (§ 250.733)

This rulemaking would revise paragraph (a)(1) by removing the reference to an extended time for compliance with exterior control line shearing requirements under the original WCR, which BSEE anticipates will have run and no longer warrant reference in the regulations by the time a final rule is promulgated. BSEE also proposes to remove the requirement to have an alternative cutting device used for shearing electric-, wire-, or slick-line if your blind shear rams are unable to cut and seal under maximum anticipated surface pressure (MASP). The alternative cutting device is no longer necessary because the currently commercially available shear rams have increased design capabilities, which are capable of shearing these types of lines. BSEE is aware of concerns regarding the removal of the alternative cutting device option. Therefore, BSEE is considering other options in the final rule, such as keeping the alternative cutting device provisions in the regulations or extending the compliance date to allow the use of the alternative cutting devices until a more appropriate date when the surface stack shear rams can be upgraded to shear electric-, wire-, or slick-line.

BSEE is specifically soliciting comments about the effectiveness of using an alternative cutting device and whether BSEE should continue to allow its use. Additionally, BSEE is also specifically soliciting comments on how long it would take for surface stack shear rams to be upgraded to shear electric-, wire-, or slick-line. Please provide reasons for your position and any applicable associated data.

BSEE is also proposing to revise paragraph (b)(1) to extend the compliance date from April 29, 2019 to April 29, 2021, to correspond with the same requirements for subsea BOP stacks. This revision would align the dual shear ram requirements for surface BOPs installed on floating facilities and subsea BOPs. Aligning these dates would help minimize confusion between the conflicting effective dates of the parallel requirements for surface BOPs used on floating facilities and subsea BOPs. This revision would also allow more time to install the dual shear rams in a surface BOP on a new floating facility and potentially minimize the technical and economic challenges prior to installation.

New paragraph (e) would be added to clarify the minimum surface BOP system requirements for well-completion, workover, and decommissioning operations where estimated well pressures are low. The provisions in this proposed paragraph were inadvertently removed from the regulations through the original WCR and are consolidated from §§ 250.516, 250.616, and 250.1706 of the regulations as they existed before the original WCR. BSEE is proposing minor revisions to the original language to conform to the applicable operations covered under revised Subpart G and to update cross-referenced citations. When BSEE developed the original WCR, it attempted to consolidate all of the BOP requirements from Subparts D, E, F, and Q, but in doing so inadvertently removed the requirements of this paragraph. The provisions in this paragraph would provide flexibility to utilize appropriate configurations and capabilities for surface BOP stacks where estimated well pressures are low (*e.g.,* an end of life well).

What are the requirements for a subsea BOP system? (§ 250.734)

BSEE proposes to revise paragraph (a)(1)(ii) by clarifying that a ''combination of the'' shear rams must be capable of shearing all the items specified in the paragraph. This revision would better align the functionality of the BOP system with API Standard 53 and proposed § 250.730(a). Based upon BSEE experience with the implementation of the original WCR, BSEE is aware that certain casing shears still have difficulty shearing electric-, wire-, or slick-line, while certain blind shear rams have difficulties shearing larger casing sizes. This proposed revision would provide the operators flexibility for how they utilize the BOP system and components for operations while still ensuring all critical shearing capabilities. This would not impact safety because BSEE would still require the capability to shear at any point along the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines, appropriate area for the liner or casing landing string, shear sub on subsea test tree, and any electric-, wire-, slick-line in the hole. BSEE expects the operators to better evaluate how the BOP system, including both shear rams, would function together to comply with the required shearing capabilities. The proposed rule would also revise paragraph (a)(1)(ii) by removing references to extended times for compliance with certain shearing requirements under the original WCR, which BSEE anticipates will have run and no longer warrant reference in the regulations by the time a final rule is promulgated.

This rulemaking would revise the accumulator requirements in paragraph (a)(3) to better align with API Standard 53. BSEE would remove the reference to the subsea location of the accumulator capacity. BSEE understands that the accumulator system works together with the surface and subsea accumulator capacity to achieve full functionality, and BSEE determined that it was unnecessary to specifically identify only subsea requirements when the entire system is covered within API Standard 53. BSEE does not expect these revisions to reduce safety. The requirements to operate the key components of the BOP subsea will remain the same. This revision helps reduce the non-critical accumulator capacity on the BOP stack subsea, but would not affect safety of the critical components. Adding subsea accumulator bottles increases weight and size, which could have a negative impact on the stability and functionality of existing facilities by exceeding the operational or mechanical design limits of the wellhead and BOP systems.

Paragraph (a)(3)(i) would be revised by clarifying that the accumulator capacity must be sufficient to close each required shear ram, ram locks, one pipe ram, and disconnect the LMRP. During a well control event, the most critical functions would be to close the BOP components and seal the well. This revision would also align the requirements with the intent of the API Standard 53 request for information finalized after the original WCR.

Paragraph (a)(3)(ii) would be revised to clarify that the accumulator capacity must have the capability to perform the ROV functions within the required times outlined in API Standard 53 with ROVs or flying leads. Based upon BSEE experience with the implementation of the original WCR, BSEE is proposing to

revise this paragraph not only to better align with API Standard 53, but also to account for the technological advancements in ROV capabilities and ROV standardization to meet the appropriate BOP closing times via an ROV. Many of these advancements have taken place after publication of the original WCR. BSEE is aware of operators currently using high flow rate ROVs to meet the BOP component closing times of API Standard 53.

Paragraph (a)(3)(iii) would be revised by removing the mention of ''dedicated'' bottles and allowing bottles to be shared among emergency and secondary control system functions to secure the wellbore. This revision would further align the accumulator capacity requirements with API Standard 53 and account for the appropriate number of accumulator bottles on the subsea BOP stack. This revision would increase operator flexibility to utilize the appropriate accumulator capacity to perform the necessary emergency functions. Through the implementation of the original WCR, BSEE was able to better evaluate the effects of the original WCR accumulator requirements impacting subsea BOP space and weight limitations. This revision would help ensure that the regulatory requirements do not exceed the operational or mechanical design limits of the wellhead and BOP systems, and would help minimize risks associated with approaching those design limits.

This rulemaking would revise paragraph (a)(4) by removing the term ''opening'' and adding reference to the ROV function response times outlined in API Standard 53. After publication of the original WCR, the API Standard 53 committee clarified the definition of ''operate'' critical functions to include ''close'' only and not to include ''open.'' Removal of the ROV open function would limit the ability for well intervention after the well has already been secured; however, it would not affect or decrease the ability for the ROV to close the required components for well control purposes. During a well control event, the most critical functions would be to close the BOP components and seal the well. This revision would minimize the required number of equipment alterations to the subsea ROV panel and associated control systems and improve consistency with similar requirements in API Standard 53. The open function on the ROV panel may also be unnecessary due to technological advancements in well intervention capabilities once the well has already been secured. This paragraph would also be revised by requiring the ROV to function the appropriate BOP component within the required response time outlined in API Standard 53. BSEE is proposing to revise this paragraph not only to better align with API Standard 53, but also to account for the recent technological advancements in ROV capabilities and ROV standardization to meet the appropriate BOP closing times via an ROV. BSEE is aware that operators currently use high flow rate ROVs to meet the BOP component closing times of API Standard 53.

BSEE would also update the incorporated reference to API RP 17H to a newer edition in § 250.198(h)(94). There is a conflict between the API RP 17H first edition referenced in the original WCR and the API Standard 53 ROV requirements. The second edition of API RP 17H eliminates the conflict between the first edition and API Standard 53. BSEE would incorporate by reference the second edition of API RP 17H to ensure the appropriate methods are utilized to comply with the API Standard 53 ROV closure timeframes of 45 seconds. One of the main differences between the first edition and second edition of this recommended practice is that the second edition includes provisions on high flow Type D 17H hot stabs.

This rulemaking would also revise paragraph (a)(6)(iv) by clarifying that the autoshear/deadman functions must close at a minimum two shear rams in sequence, not every emergency function. Closing two shear rams in sequence may not be advantageous for certain emergency disconnect system (EDS) functions. Depending upon the rig operations, operators develop different EDS modes that would function different BOP components at appropriate times. The selection of the EDS mode and the specific sequencing of emergency functions should be developed by the operator based on safety considerations and an operational risk assessment. BSEE would make this change to codify BSEE guidance on the original WCR posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.*

BSEE would revise paragraph (a)(16) by removing references to the centering mechanism and the ability to mitigate compression of the pipe between the shear rams in paragraphs (i) and (ii), respectively. Based upon BSEE experience with the implementation of the original WCR and increased interactions with OEMs of shearing components, BSEE would remove these paragraphs based upon a better understanding of the technological advancements of available shearing capabilities to accomplish the same goals outlined in these paragraphs. Many of the shear ram designs have improved the shearing capabilities to help ensure the shearing is conducted on the appropriate shearing area of the shear blades. This is commonly done by shaping the shear ram cutting blades in a ''V'' or ''W'' pattern to help center the pipe as it shears, as well as to increase the blade face surface area to ensure there are no areas that cannot shear the pipe in the well. BSEE is also proposing to remove paragraphs (a)(6)(v) and (a)(6)(vi) based upon a better understanding of the third party verifications and documentation of the shearing requirements as outlined in current § 250.732(b). BSEE does not expect these revisions to decrease safety because these newer designed shear rams are off the shelf available components that can be swapped with current components. BSEE believes that operators will continue to substitute new components for old ones to comply with the still-required increased shearing capability provisions of the original WCR. BSEE is aware of many technological advancements in shearing ram designs and capabilities. BSEE expects the shear rams to shear pipe or wire in any position within the wellbore; however, BSEE is specifically soliciting comments about the effectiveness of requiring shear rams to center pipe or wire while shearing, or requiring shear rams to have the capability to shear any pipe or wire in the hole without a separate centering mechanism. Another option BSEE is considering is retaining the centering mechanism requirements, but expressly providing that the shear rams with these capabilities satisfy the requirements. Please provide reasons for your position and any applicable associated data.

This rulemaking would revise paragraph (b)(1) by replacing the BAVO references with references to an independent third party. For a discussion of the general shift from BAVOs to independent third parties, see the section-by-section discussion of § 250.732.

BSEE would also revise paragraph (b)(2), redesignate existing paragraph (b)(3) as (b)(4), and add new paragraph (b)(3) to include provisions for testing the applicable BOP or LMRP upon relatch to the well. The original WCR did not address this provision, however based upon BSEE experience, these revisions would codify longstanding BSEE policy and provide clarity for testing when an operator has returned to the location and relatched the BOP or LMRP to the well. These tests help confirm that the BOP or LMRP is

properly functional prior to resuming operations after being removed.

What associated systems and related equipment must all BOP systems include? (§ 250.735)

This proposed rule would revise paragraph (a) by clarifying that the accumulator system must have the fluid volume capacity and appropriate pre-charge pressures in accordance with API Standard 53. BSEE would revise this section to provide consistency with the API Standard 53 and conform to the other proposed accumulator system revisions in § 250.734. This revision would not materially alter the requirements of this section, which are already based upon API Standard 53. An accumulator system is necessary to provide the fluid and pressure to operate desired BOP functions. API Standard 53 outlines the pre-charge pressure calculations in Annex C and additional requirements for the accumulator system pressures in the drawdown tests.

What are the requirements for choke manifolds, kelly-type valves inside BOPs, and drill string safety valves? (§ 250.736)

This rulemaking would revise paragraph (d)(5) by including equipment requirements for the safety valve when running casing with a subsea BOP. This revision would specify that the safety valve must be available on the rig floor if the length of casing being run exceeds the water depth, which would result in the casing being across the BOP stack and the rig floor prior to crossing over to the drill pipe running string. Based upon BSEE experience with the implementation of the original WCR, the substance of this revision is currently incorporated into every subsea well permit approval as a standard condition. This revision would provide clarity and consistency throughout BSEE permitting and minimize the number of alternate procedure or equipment requests submitted to BSEE.

What are the BOP system testing requirements? (§ 250.737)

This rulemaking would revise paragraph (b) to clarify the BOP system pressure testing requirements. These revisions would include clarification that the test rams and non-sealing shear rams do not need to be pressure tested, and this would not impact safety because the non-sealing shear rams are not pressure holding components and the test ram is an inverted ram that is not utilized for well control purposes. Paragraph (b)(2) would be revised to add in the current BSEE policy for conducting the high-pressure test for specific components. For example, some of the revisions would include specific procedures and testing parameters for initial equipment pressure testing and also include the provisions for subsequent pressure testing on the same equipment. Since the publication of the original WCR, BSEE received many questions from operators regarding the operational application of the current pressure testing requirements. This proposed revision would codify BSEE policy and provide clarity and consistency for permitting throughout the Regions and Districts.

In this proposed rule, BSEE would also revise paragraphs (d)(2) and (d)(3) by removing the requirement to submit test results to BSEE where BSEE is unable to witness testing. Based upon BSEE experience with the implementation of the original WCR, these revisions would significantly reduce the number of submittals to BSEE and minimize the associated burden for BSEE to review those submittals. If BSEE is unable to witness the testing, BSEE still has access to the testing documentation upon request in accordance with §§ 250.740, 250.741, and 250.746.

Paragraph (d)(3)(iv) would be revised by removing ''test and[.]'' BSEE would remove this term to minimize confusion regarding verification and testing. In this instance, verification of closure qualifies as testing the ROV functions. The purpose of the stump test is to help ensure the BOP components and control systems can function properly before being utilized on a well.

BSEE would revise paragraph (d)(3)(v) to clarify that pressure testing of each ram and annular on the stump test is only required once. This revision would help ensure that the testing of BOP components during stump testing would limit unnecessarily duplicative pressure testing on each ram or annular. BSEE would also make this change to codify BSEE guidance on the original WCR. The purpose of the stump test is to help ensure the BOP components and control systems can function properly before being utilized on a well. It is unnecessary to pressure test a ram or annular multiple times during stump testing if that component has already been successfully pressure tested, verifying proper functionality. This revision would help limit the risk associated with component wear.

Paragraph (d)(4)(i) would be revised to clarify that the initial subsea BOP test on the sea floor would need to ''begin'' within 30 days of the stump test. BSEE receives many questions about the timing of the initial subsea test and, as written, the regulation was ambiguous regarding exactly what needed to occur within the 30 days. Based upon its experience with the implementation of the original WCR, BSEE proposes this revision to clarify that the testing has to begin within 30 days. BSEE wants to ensure that the time between the stump testing and the initial subsea test is minimal to help ensure that all of the BOP components can properly function upon installation on the well.

Paragraph (d)(4)(iii) would be revised to include annulars in the pressure testing requirements of paragraphs (b) and (c) of this section. This revision would not alter the current testing requirements for annulars, but based upon BSEE experience with the implementation of the original WCR, would provide clarity for where to find them.

Paragraph (d)(4)(v) would be revised to clarify the initial subsea pressure testing requirements to confirm closure of the selected ram through an ROV hot stab. This revision would require the operator to confirm closure through a 1,000 psi pressure test held for 5 minutes. This revision would codify BSEE policy for pressure testing the selected ram through the ROV hot stabs. Based on BSEE experience during the implementation of the original WCR, BSEE has concluded that testing to higher pressures is not necessary for this circumstance because the intended purpose of this test is to verify operability of the ROV hot stab to close the selected ram. Selected rams will be pressure tested according to other regularly required pressure testing intervals. This revision would save rig operational time by reducing the amount of time required to conduct the pressure test, minimize the risk associated with wear of the BOP components, and eliminate associated alternate procedure requests.

Existing paragraph (d)(4)(vi) would be removed because the testing requirements of the selected ram would now be covered under proposed paragraph (d)(4)(v).

BSEE would revise paragraph (d)(5) by clarifying the alternating testing schedules of control stations and pods. These revisions would ensure that operators develop a testing schedule that allows for alternating testing between the control stations, and also between the pods for subsea BOPs. The intended result of alternating the testing is to ensure that each control station, and each pod for subsea, can properly function all required BOP components. Based on BSEE experience during the implementation of the original WCR,

BSEE has concluded that these revisions would help ensure BOP functionality while not inadvertently requiring unnecessarily duplicative testing. This revision would save rig operational time by reducing the number of unnecessary duplicate tests, and minimize the risk associated with wear of the BOP components functioned during testing.

Paragraph (d)(12)(iv) would be revised by clarifying that, during the deadman test on the seafloor, operators are not required to indicate the discharge pressure of the subsea accumulator throughout the entire test. These revisions would require that the remaining pressure be documented at the end of the test, to help verify the proper accumulator settings required to function the specific critical BOP components.

Paragraph (d)(12)(vi) would be revised to clarify the pressure testing requirements of the original WCR, to confirm closure of the BSR(s) during the autoshear/deadman and EDS testing. This revision would require confirmation of closure through a 1,000 psi pressure test held for 5 minutes. Based upon BSEE experience with the implementation of the original WCR, this revision would codify BSEE policy for autoshear/deadman and EDS pressure testing of the BSR(s). Testing to higher pressures is not necessary for this circumstance because the BSR(s) will be pressure tested according to other regularly required pressure testing intervals. This revision would save rig operational time by reducing the amount of time required to conduct the pressure test, and minimize the risk associated with wear of the BOP components.

BSEE proposes to add paragraph (d)(13) setting forth exceptions for pressure testing the choke and kill side outlet valves. Since publication of the original WCR, BSEE has received many questions from operators regarding the operational application of the current pressure testing requirements. This addition would codify BSEE policy and provide consistency for permitting throughout the Regions and Districts without meaningfully reducing safety or environmental protection.

What must I do in certain situations involving BOP equipment or systems? (§ 250.738)

This rulemaking would revise paragraphs (b), (i), (m), and (o) by replacing the references to BAVOs with references to an independent third party throughout. For a discussion of the proposed shift from BAVOs to independent third parties, see the section-by-section discussion of § 250.732.

Paragraph (f) would be revised to clarify the testing requirements implemented by the original WCR necessary to verify the integrity of the affected casing ram or casing shear ram and connections. Based upon BSEE experience with the implementation of the original WCR, this revision would codify BSEE policy to allow the pressure testing to the test pressure of the BOP component above this ram as specified in the approved permit.

Paragraph (m) would be revised to replace the term ''well-control equipment'' with ''circulating or ancillary equipment.'' This revision would eliminate confusion arising from the use of conflicting terms that may have different meanings throughout the regulations.

What are the BOP maintenance and inspection requirements? (§ 250.739)

BSEE proposes to revise paragraph (b) by replacing ''complete breakdown and detailed physical inspection'' with a ''major, detailed inspection,'' identifying examples of well control system components, replacing references to the BAVO with references to an independent third party, and replacing the requirement to have a BAVO present during each inspection with a requirement for an independent third party to review inspection results.

Replacing ''complete breakdown and detailed physical inspection'' with a ''major, detailed inspection'' would correct the industry misconception, prevalent since the promulgation of the original WCR, that each component must be dismantled to its smallest possible part. This was never the intent behind this provision of the WCR, and these revisions would clarify BSEE's positions on the WCR requirement and resolve perceived ambiguities, without substantively altering the inspection requirement. BSEE would make this change to codify BSEE guidance on the original WCR posted on the BSEE website at *https://www.bsee.gov/guidance-and-regulations/regulations/well-control-rule.* BSEE also proposes to add references to examples of the well control system components requiring inspection to clarify the general reference in the original WCR.

For a discussion of the proposed shift from BAVOs to independent third parties, see the section-by-section discussion of § 250.732.

BSEE would also remove the requirement for the BAVO to be present during each inspection and replace it with a requirement that an independent third party review the inspections results. BSEE expects the independent third party to review the documentation of the inspections to help ensure that the appropriate entities accurately and appropriately complete the activities. These reports would also help facilitate other required verifications that the BOP is fit for service, such as those required by § 250.731. These revisions would ease the original WCR logistical and economic burdens of having the BAVO onsite at all times during all inspections.

What are the coiled tubing and snubbing requirements? (§ 250.750)

The content of this proposed section was moved from current §§ 250.616 and 250.1706. This section would consolidate some of the minimum BOP system component requirements for coiled tubing and snubbing operations. BSEE is proposing minor revisions to the original language to conform to the applicable operations covered under Subpart G. BSEE is also proposing to add paragraph (d) to conform snubbing unit testing with updated requirements.

Coiled Tubing Testing Requirements (§ 250.751)

BSEE proposes to add this section to codify current BSEE policy regarding the coiled tubing testing and recording requirements. This addition would a reintroduce similar provisions that were inadvertently removed in the original WCR, consolidating elements from §§ 250.617 and 250.1707 of the regulations as they existed before the original WCR. Both sections are currently reserved. BSEE is proposing revisions to the original language to conform to the applicable requirements of Subpart G. For example, BSEE would not include in this section the provisions regarding testing of the coiled tubing connector, because the proposal would require that operators ''must test the coiled tubing unit in accordance with § 250.737 paragraphs (a), (b), (c), (d)(9), and (d)(10)''. Section 250.737 requires testing of the system when installed and provides testing criteria. Identifying the connector testing in this section is not necessary because it is already covered by the testing requirements of § 250.737.

Subpart Q—Decommissioning Activities

What are the general requirements for decommissioning? (§ 250.1703)

This rulemaking would revise paragraph (b) to clarify that only packers or bridge plugs used as mechanical barriers are required to comply with ANSI/API Spec. 11D1. Based upon BSEE experience with the

implementation of the original WCR, this revision would codify BSEE's policy to ensure that the required mechanical barriers in a well are held to a higher standard than other common packers or bridge plugs used for various well specific conditions and completions design. Furthermore, BSEE is aware that certain packers and bridge plugs cannot meet the specifications of ANSI/API Spec. 11D1. This revision would minimize the number of alternate equipment requests submitted to BSEE. BSEE would also add that operators must have two independent barriers, one being mechanical, in the exposed center wellbore (*e.g.,* this could be the tubing or casing depending on the well configuration) prior to removing the tree or well control equipment. This addition would codify BSEE policy and align the well decommissioning requirements with similar requirements from §§ 250.720(a) and 250.1712(g). This addition would help ensure the well is properly secured before removal of the tree or well control equipment.

What decommissioning applications and reports must I submit and when must I submit them? (§ 250.1704)

BSEE proposes to revise paragraph (g) by adding the requirements for submittal of the site clearance verification activity information in an Application for Permit to Modify (APM). The site clearance verification activity information would be removed from the end of operations report (EOR). Based on BSEE experience during the implementation of the original WCR, BSEE became aware of dual reporting of the same information and confusion about which permit or report should include the information. These revisions would better reflect current practice and limit redundant reporting.

Paragraph (h) would be revised by adding the submittal of the decommissioning activity information, upon completion, in the EOR. Based upon BSEE experience with the implementation of the original WCR, these revisions would better reflect current practice and limit redundant reporting.

Coiled Tubing and Snubbing Operations (§ 250.1706)

This section would be removed and reserved. The content of this section would be moved to proposed § 250.750. These revisions would help BSEE eliminate inconsistencies between similar requirements throughout different BSEE subparts by consolidating those requirements into Subpart G, which is applicable to drilling, completions, workovers, and decommissioning operations.

Must I notify BSEE before I begin well plugging operations? (§ 250.1713)

This section would be removed and reserved. Based upon BSEE experience with the implementation of the original WCR, BSEE determined that the submittal of the information required by this section is redundant with similar rig movement notification information required under § 250.712.

To what depth must I remove wellheads and casings? (§ 250.1716)

This rulemaking would revise paragraph (b)(3) by changing the water depth criteria for when BSEE may approve an alternate depth for removal of the wellhead or casing from 800 meters to 1000 feet. BSEE would include this new regulatory revision in order to codify longstanding BSEE policy established before the original WCR. At depths below 1,000 feet, there is little risk of obstruction to other users of the OCS or its waters or contact with other equipment, and little risk of safety or environmental issues from removal to an alternate depth.

If I install a subsea protective device, what requirements must I meet? (§ 250.1722)

BSEE proposes to revise paragraph (d) to direct the submittal of the trawl test report to the EOR rather than an APM. This revision would reflect current BSEE practice established before publication of the original WCR and help minimize redundant reporting. It would not affect the substance of the reporting requirement or the information BSEE receives, only the mechanism through which it is received.

III. Additional Comments Solicited

A. BOP Testing Frequency

BSEE is requesting comments on whether the BOP testing interval should be 7 days, 14 days, or 21 days for all types of operations including drilling, completions, workovers, and decommissioning. BSEE is also requesting comments on the specific cost and operational implications of each testing interval to further its consideration of the issue.

The industry and BSEE currently rely on function and hydrostatic tests to verify the performance of BOP equipment in the field. These tests have traditionally been the primary method of verifying the capability of in-service equipment.

In recent years, the industry has raised concerns related to the benefits of pressure and functional testing of subsea BOPs when compared to the costs and potential operational issues. BSEE requests comments on the adequacy of the current functional and pressure test requirements in predicting the performance of this equipment in subsequent drilling operations. Under what circumstances or environments should the testing frequency be increased or decreased? BSEE is aware of potential technologies that may improve the operability and reliability of BOP systems. Are there additional technologies, processes, or procedures that can be used to supplement existing requirements and provide additional assurances related to the performance of this equipment?

Please provide supporting reasons and data for your responses.

B. Economic Data

The compliance costs and savings in the regulatory impact analysis (RIA) are BSEE's best estimates based on experience with the previous WCR, stakeholder comments, and communication with industry. BSEE is requesting comments related to the appropriateness and accuracy of the compliance costs and benefits identified in the RIA. Please provide supporting reasons and data for your responses.

IV. Procedural Matters

Regulatory Planning and Review (Executive Orders (E.O.) 12866, 13563, and 13771)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs within the OMB will review all significant rules. BSEE coordinated development of an economic analysis to assess the anticipated costs and potential benefits of the proposed rulemaking. OIRA has determined that it would have a positive annual effect on the economy of $100 million or more. The significant positive economic effect on the economy is the result of the proposed cost savings in this rule. BSEE estimates the amendments in this rulemaking would save the regulated industry $98.6 million annually over ten years (discounted at 7 percent).

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The E.O. directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these

approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Executive Order 13771 requires Federal agencies to take proactive measures to reduce the costs associated with complying with Federal regulations. This proposed rule is expected to be an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found in the rule's economic analysis. The cost savings for the regulatory clarifications, reduction in paperwork burdens, adoption of industry standards, and migration to performance-based standards for select provisions constitute an E.O. 13771 deregulatory action. BSEE also finds that the reduced regulated entity compliance burden would not increase the safety or environmental risks for offshore drilling operations.

This rulemaking proposes to revise regulatory provisions in 30 CFR part 250, subparts D, E, F, G, and Q. BSEE has reassessed a number of the provisions in the original (1014–AA11) WCR rulemaking and proposes to rewrite some provisions as performance-based standards rather than prescriptive requirements. Other proposed revisions would reduce or eliminate parts of the paperwork burden, while providing the same levels of safety and environmental protection. BSEE sought the best available data and information to analyze the economic impact of the proposed changes. The Initial RIA (IRIA) for this rulemaking can be found in the *https://www.regulations.gov/* docket (Docket ID: BSEE–2018–0002). The IRIA indicates that the estimated overall cost savings to the industry over the next 10 years would exceed $900 million in nominal dollars.

BSEE proposes to revise certain provisions of the original rule to support the goals of the regulatory reform initiatives while ensuring safety and environmental protection. BSEE has received additional information since the publication of 1014–AA11 and revisited several of the compliance cost assumptions in the economic analysis for the 2016 1014–AA11 final rule. The proposed modifications to the BSEE compliance cost estimates in the 1014–AA11 analysis are primarily related to:

(1.) Underestimating the cost for revising permits or reporting certain operations to the District Manager (§§ 250.428 and 250.722), and

(2.) Underestimating both the number of subsea BOPs that would require modifications and the cost of those modifications under the 1014–AA11 regulations (§ 250.734).

The proposed revisions to existing ram and accumulator requirements for subsea BOPs (§ 250.734) represent the single largest cost savings provision in this proposed rule, yielding cost savings of $690 million (nominal$). The proposed changes to § 250.734 would better align the shear ram provisions with API Standard 53, revise the accumulator capacity requirements for subsea BOP stacks, and redefine shearing requirements.

BSEE expects the proposed rule would reduce the regulatory burden on industry, and the proposed amendments would not negatively impact worker safety or the environment. BSEE proposes to provide industry flexibility, when practical, to meet the safety or equipment standards, rather than specifying the compliance method. For example, BSEE is proposing to eliminate the requirement that operators resubmit an Application for Permit to Drill (APD) in the event of planned mud losses or inadequate cement jobs. Instead, BSEE proposes to allow the operator to outline remedial actions to these scenarios in contingency plans included in the original approved APD. This revision would not change the operational responses to these events, and therefore will reduce the paperwork burden and expensive operational downtime without increasing drilling risks. Other changes would remove BOP stack certification requirements regarding design specifications and equipment conditions and replace the BAVO requirements for BOP systems and system components with independent third party requirements. The existing provisions are either duplicative or provide a more burdensome certification process than necessary. The proposed changes to the certification processes will continue to protect worker safety and the environment.

The proposed § 250.734 amendments would better define the BOP components functionality requirements, revise the requirements for ROV capability and functionality, and amend accumulator capacity requirements for subsea BOP stacks. This revision to the accumulator requirements would increase operator flexibility to utilize the appropriate accumulator capacity to perform the necessary emergency functions. Through the implementation of the original WCR, BSEE was able to better evaluate the effects of the original WCR accumulator requirements on subsea BOP space and weight limitations. After reevaluating the API 53 standards, BSEE agrees that certain prescriptive requirements in the current regulations are unnecessary and the proposed regulatory text revisions would align BSEE regulations with the performance standards in API Standard 53. The proposed § 250.734 revisions would also remove the prescriptive requirement that EDS emergency functions must close at a minimum two shear rams in sequence. This would allow the operator to select the appropriate EDS emergency function shearing sequence for the circumstances and would adopt the performance standard that the BOP system must be able to seal the wellbore. Furthermore, the accumulator capacity required in API 53 is sufficient to actuate the BOP ram functions necessary to seal the well. This performance standard meets the intent of the 1014–AA11 well control rule without the prescriptive and unnecessarily burdensome requirements. The alignment of the accumulator volume requirements with industry standards would also provide additional safety benefits. The weight of the combined BOP and accumulator bottle package required by the original rule would be reduced with these proposed revisions. This reduction would avoid increased strain on rig handling systems and potentially avoid modifications on some rigs to accommodate the additional space and BOP handling requirements.

The proposed § 250.737 paragraph (d)(5) amendments would allow the operator to alternate tests between the two control stations rather than testing from both control stations on each test. Testing from both control stations on a weekly basis has been proven to wear the BOP components out at a faster rate than was expected when the original WCR was written. The proposed rule would return the regulations to pre-1014–AA11 regulatory language in order to prevent the additional wear and tear on the BOP components. This change would align BSEE regulations with the industry testing standards.

BSEE's estimate of the net total, annualized and discounted regulatory cost savings can be found in the following table.

Total Estimated Cost Savings Associated with Proposed Amendments to Subparts D, E, F, G, and Q

Year	Undiscounted	Discounted at 3%	Discounted at 7%
Total	$946,175,915	$824,163,783	$692,766,029
Annualized	$94,617,592	$96,617,138	$98,634,297

This rulemaking would reduce the burden imposed on society while ensuring continued safety and environmental protection. Additional information on the compliance costs, savings, and benefits can be found in the IRIA posted in the docket.

BSEE has developed this proposed rule consistent with the requirements of E.O. 12866, E.O. 13563, and E.O. 13771. This proposed rule would revise multiple provisions in the current regulations with performance-based provisions based upon the best reasonably obtainable safety, technical, economic, and other information. Other redundant or unnecessary reporting requirements are proposed for elimination. BSEE proposes to provide industry flexibility, when practical, to meet the safety or equipment standards, rather than specifying the compliance method. Based on a consideration of the qualitative and quantitative safety and environmental factors related to the proposed rule, BSEE's assessment is that its promulgation would be consistent with the requirements of the applicable Executive Orders and the OCSLA.

Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires agencies to analyze the economic impact of proposed regulations when a significant economic impact on a substantial number of small entities is likely and to consider regulatory alternatives that will achieve the agency's goals while minimizing the burden on small entities. In addition, the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601 note, requires agencies to produce compliance guidance for small entities if the rule has a significant economic impact. For the reasons explained in this analysis, BSEE believes the proposed rule may have a significant economic impact and, therefore, a regulatory flexibility analysis for the Proposed Rule is required by the RFA. The Initial Regulatory Flexibility Analysis (IRFA), which assesses the impact of this proposed rule on small entities, can be found in the Regulatory Impact Analysis (RIA) within the docket for this rulemaking.

As defined by the Small Business Administration (SBA), a small entity is one that is ''independently owned and operated and which is not dominant in its field of operation.'' What characterizes a small business varies from industry to industry in order to properly reflect industry size differences. This proposed rule would affect lease operators that are conducting OCS drilling or well operations. BSEE's analysis shows this could include about 69 companies with active drilling or well operations. Of the 69 companies, 21 (30 percent) are large and 48 (70 percent) are small. Entities that would operate under this proposed rule are classified primarily under North American Industry Classification System (NAICS) codes 211120 (Crude Petroleum Extraction), 211130 (Natural Gas Extraction), and 213111 (Drilling Oil and Gas Wells). The proposed rule would indirectly impact OCS drilling companies that are the regulated entities classified under NAICS code 21311 and this analysis focuses on the OCS oil and gas lessees and operators. For NAICS codes 211120, SBA defines a small company as having fewer than 1,251 employees.

BSEE considers that a rule will have an impact on a ''substantial number of small entities'' when the total number of small entities impacted by the rule is equal to or exceeds 10 percent of the relevant universe of small entities in a given industry. BSEE's analysis shows that there are 48 small companies with active operations on the OCS, and all of these companies could be impacted by the proposed rule if conducting drilling or well operations. Therefore, BSEE expects that the proposed rule would affect a substantial number of small entities.

Large companies are responsible for the majority of activity in deepwater, where subsea BOPs are used with floating MODUs. BSEE's first-order estimate for the rulemaking's small entity cost savings is proportional to the number of drilling rigs being operated or contracted by small companies (circa October 2017).

This proposed rule is a deregulatory action; however, BSEE has evaluated possible costs and benefits and has estimated that there is an overall associated cost savings. BSEE has estimated the annualized cost savings by regulatory provision and then allocated those savings to small or large entities based on drilling/well activity (circa October, 2017; activity breakouts can be found in the IRFA). The proposed changes to §§ 250.423, 250.734, and 250.737 paragraph (d)(5) would only apply to subsea BOPs and would yield cost savings that sum to $70,250,336. All remaining proposed changes would apply to all well operations or subsea/surface BOPs, and would yield cost savings that sum to $24,367,256. Using the share of small and large companies subject to each suite of provisions, we estimate that small companies would realize 15 percent of the cost savings from this rulemaking and large companies 85 percent. The allocation is displayed in the following table.

Cost Savings by Operator Size (Undiscounted Annualized $)

Provision	Small Companies		Large Companies		Total Cost Savings
	Percent of Operators	Cost Savings	Percent of Operators	Cost Savings	
Subsea BOP Provisions	12%	$9,588,275	88%	$71,912,061	$81,500,336
All Other Provisions	30%	$3,965,682	70%	$9,151,574	$13,117,256
TOTAL:		$13,553,957 (15% of Total)		$81,063,635 (85% of Total)	$94,617,592

This proposed rule:

a. Would have a positive economic effect on the economy of $100 million or more. The cost savings will not materially affect the economy nationally or in any local area.

b. Would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, Tribal, or local governments; or regions of the nation. This proposed rule would have positive effects on OCS operators and is not anticipated to negatively impact oil, gas, and sulfur production or the cost of fuels for consumers.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

BSEE has determined that this proposed rule is a major rule because it would have an annual effect on the economy of $100 million or more in at least one year of the 10-year period analyzed. The requirements apply to all entities operating on the OCS regardless of company designation as a small business. For more information on the small business impacts, see the IRFA in the RIA. 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 to the Regional Small Business Regulatory Fairness Board. 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 BSEE, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The proposed rule would not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (E.O. 12630)

Under the criteria in E.O. 12630, this proposed rule does not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally protected property rights. A Takings Implication Assessment is not required.

Federalism (E.O. 13132)

Under the criteria in E.O. 13132, this proposed rule does not have federalism implications. This proposed rule would not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this proposed rule would not affect that role. A federalism assessment is not required.

Civil Justice Reform (E.O. 12988)

This proposed rule complies with the requirements of E.O. 12988. Specifically, this rule:

(1) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(2) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (E.O. 13175)

BSEE is committed to regular and meaningful consultation and collaboration with tribes on policy decisions that have tribal implications. Under the criteria in E.O. 13175 and DOI's Policy on Consultation with Indian Tribes (Secretarial Order 3317, Amendment 2, dated December 31, 2013), we have evaluated this proposed rule and determined that it has no substantial direct effects on federally recognized Indian tribes.

National Technology Transfer and Advancement Act (NTTAA)

BSEE complies with the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 3701 *et seq.*) requirement that an agency ''use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical.'' (OMB Circular A–119 at p. 13). BSEE also complies with the OFR regulations governing incorporation by reference. (*See,* 1 CFR part 51.) Those regulations also specify the process for updating an incorporated standard at § 51.11(a), and BSEE complies with those requirements, including seeking approval by OFR for a change to a standard incorporated by reference in a final rule.

Paperwork Reduction Act (PRA) of 1995

This proposed rule contains collections of information that will be submitted to OMB for review and approval under the PRA, 44 U.S.C. 3501 *et seq.* As part of its continuing effort to reduce paperwork and burdens on respondents, BSEE invites the public and other Federal agencies to comment on any aspect of the reporting and recordkeeping burden. If you wish to comment on the information collection (IC) aspects of this proposed rule, you may send your comments directly to OMB and send a copy of your comments to the Regulations and Standards Branch (see the **ADDRESSES** section of this proposed rule). Please reference 30 CFR part 250, subpart G, Blowout Preventer Systems and Well Control, 1014–0028, in your comments. To see a

copy of the information collection request submitted to OMB, go to *http://www.reginfo.gov* (select Information Collection Review, Currently Under Review); or you may obtain a copy of the supporting statement for the new collection of information by contacting the Bureau's Information Collection Clearance Officer at (703) 787–1607.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB is required to make a decision concerning the collection of information contained in these proposed regulations 30–60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of being fully considered if OMB receives it by June 11, 2018. This does not affect the deadline for the public to comment to BSEE on the proposed regulations.

The title of the collection of information for this rule is 30 CFR part 250, Blowout Preventer Systems and Well Control Revisions (Proposed Rulemaking). The proposed regulations concern BOP system requirements and maintaining well control, among others, and the information is used in BSEE's efforts to regulate oil and gas operations on the OCS to protect life and the environment, conserve natural resources, and prevent waste.

Potential respondents comprise Federal OCS oil, gas, and sulfur operators and lessees. Responses to this collection of information are mandatory, or are required to obtain or retain a benefit; they are also submitted on occasion, daily and weekly (during drilling operations), monthly, quarterly, biennially, and as a result of situations encountered, depending upon the requirement. The IC does not include questions of a sensitive nature. The BSEE will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552) and DOI implementing regulations (43 CFR part 2), 30 CFR part 252, *OCS Oil and Gas Information Program,* and 30 CFR 250.197, *Data and information to be made available to the public or for limited inspection.*

This proposed rule affects Applications for Permits to Drill (1014–0025, expiration 4/30/20); Applications for Permits to Modify (1014–0026, expiration 7/31/20); Subpart B (1014–0024, expiration 11/30/18); Subpart D (1014–0018, expiration 3/31/2021); Subpart E, (1014–0004, expiration 1/31/20); Subpart G (1014–0028, expiration 07/31/19); and Subpart Q, (1014–0010, expiration 1/31/20).

The following is a brief explanation of how the proposed regulatory changes would affect the various subpart hour burdens:

• APD—Proposed § 250.428 removes the requirement to resubmit an application for permit to drill (APD) in the event of planned mud losses, or remedial actions for inadequate cement jobs, if these circumstances are addressed in the original approved APD. Reductions will be shown during the renewal process (see Section by Section Discussion above).

250.724(b): BSEE is proposing to eliminate the requirement to submit certification that you have a real-time monitoring plan that meets the criteria listed. This would decrease the hour burden by 109 hours (see Section by Section Discussion above).

• Subpart A—§ 250.423 proposes rewording the requirement in a manner that would reduce the number of alternative procedure or equipment requests under § 250.141. Reductions will be shown during the renewal process (see Section by Section Discussion above).

• Subpart B—§ 250.292(p) proposes to require less information to be submitted in the DWOP. Reductions will be shown during the renewal process (see Section by Section Discussion above).

• Subpart D—§ 250.462(e)(1) would add Independent Third Party costs increasing the non-hour cost burdens by $16,000 (see Section by Section Discussion above).

• Subpart G:

§ 250.720(a)(3) would be new and would require operators to request and receive District Manager approval before resuming operations after unlatching the BOP or LMRP, and would add 13 burden hours (see Section by Section Discussion above).

§ 250.731 would add Independent Third Party costs, increasing the non-hour cost burdens by $31,000 (see Section by Section Discussion above).

§ 250.732(a) would add Independent Third Party costs, increasing the non-hour cost burdens by $765,000 (see Section by Section Discussion above).

§ 250.732(d) would eliminate the requirement to request and submit for approval all relevant information to become a BAVO. This would decrease the hour burden by 700 hours (see Section by Section Discussion above).

§ 250.737(d)(5) would be new and proposes to allow for alternating tests between two control stations; adding 25 burden hours (see Section by Section Discussion above).

§ 250.751 would be new and proposes to include the coiled tubing testing and recording requirements that were inadvertently removed in the original Well Control Rule; adding 3,630 burden hours (see Section by Section Discussion above).

BSEE-Approved Verification Organization = BAVO; is being replaced with Independent Third Party (ITP). In connection with the original WCR, BSEE assumed hour burdens in place of non-hour costs associated with BAVO submissions; however, in this proposed rule, we are capturing non-hour costs associated with hiring ITPs totaling $812,000 (+$16,000 would be added to the information collection associated with OMB Control number 1014–0018 and +$796,000 would be added to the information collection associated with OMB Control number 1014–0028). 1014–0018 and +$796,000 in 1014–0028).

If this proposed rule becomes effective, BSEE will use the current OMB control numbers for the affected subparts discussed and will have their information collection burdens adjusted accordingly through the renewal process.

National Environmental Policy Act of 1969 (NEPA)

BSEE has prepared a draft environmental assessment (EA) to determine whether this proposed rule would have a significant impact on the quality of the human environment under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). If the final EA supports the issuance of a Finding of No Significant Impact for the rule, the preparation of an environmental impact statement pursuant to the NEPA would not be required. A copy of the draft EA can be viewed at *www.regulations.gov* (use the keyword/ID ''BSEE–2018–0002'').

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, app. C, sec. 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (E.O. 13211)

This proposed rule is not a significant energy action under the definition in E.O. 13211. Although the rule is a significant regulatory action under E.O. 12866, it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. A Statement of Energy Effects is not required.

Clarity of This Regulation

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you feel lists or tables would be useful, *etc.*

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. In order for BSEE to withhold from disclosure your personal identifying information, you must identify any information contained in the submittal of your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence(s) of the disclosure of information, such as embarrassment, injury, or other harm. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Severability

If a court holds any provisions of a subsequent final rule or their applicability to any persons or circumstances invalid, the remainder of the provisions and their applicability to other people or circumstances will not be affected.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Incorporation by reference, Oil and gas exploration, Outer Continental Shelf—mineral resources, Outer Continental Shelf—rights-of-way, Penalties, Reporting and recordkeeping requirements, Sulfur.

Joseph R. Balash,

Assistant Secretary—Land and Minerals Management, U.S. Department of the Interior.

For the reasons stated in the preamble, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 33 U.S.C. 1321(j)(1)(C), 43 U.S.C. 1334.

Subpart A—General

■ 2. Amend § 250.198 by revising paragraphs (h)(63), (h)(78), and (h)(94), and adding new paragraph (m)(2), to read as follows:

250.198 Documents incorporated by reference.

* * * * *

(h) * * *

(63) API Standard 53, Blowout Prevention Equipment Systems for Drilling Wells, Fourth Edition, November 2012, incorporated by reference at §§ 250.730, 250.734, 250.735, 250.737, and 250.739;

* * * * *

(78) API Standard 65—Part 2, Isolating Potential Flow Zones During Well Construction; Second Edition, December 2010; incorporated by reference at §§ 250.415(f) and 250.420(a)(6);

* * * * *

(94) API Recommended Practice 17H, Remotely Operated Tool and Interfaces on Subsea Production Systems, Second Edition, June 2013, Errata January 2014, incorporated by reference at § 250.734(a)(4);

* * * * *

(m) * * *

(2) ISO/IEC 17021–1—Conformity assessment—Requirements for bodies providing audit and certification of management systems—Part 1, First Edition, June 2015, incorporated by reference at § 250.730(d).

* * * * *

Subpart B—Plans and Information

■ 3. Amend § 250.292 by revising paragraph (p) to read as follows:

§ 250.292 What must the DWOP contain?

* * * * *

(p) If you propose to use a pipeline free standing hybrid riser (FSHR) on a permanent installation that utilizes a buoyancy air can suspended from the top of the riser, you must provide the following information in your DWOP in the discussions required by paragraphs (f) and (g) of this section:

(1) A detailed description and drawings of the FSHR, buoy, and the associated connection system;

(2) Detailed information regarding the system used to connect the FSHR to the buoyancy air can, and associated redundancies; and

(3) Descriptions of your monitoring system and monitoring plan to monitor the pipeline FSHR and the associated connection system for fatigue, stress, and any other abnormal condition (*e.g.,* corrosion) that may negatively impact the riser system's integrity.

* * * * *

Subpart D—Oil and Gas Drilling Operations

■ 4. Amend § 250.413 by revising paragraph (g) to read as follows:

§ 250.413 What must my description of well drilling design criteria address?

* * * * *

(g) A single plot containing curves for estimated pore pressures, formation fracture gradients, proposed drilling fluid weights (surface and downhole), planned safe drilling margin, and casing setting depths in true vertical measurements;

* * * * *

■ 5. Amend § 250.414 by revising paragraph (c)(3) to read as follows:

§ 250.414 What must my drilling prognosis include?

* * * * *

(c) * * *

(3) When determining the pore pressure and lowest estimated fracture gradient for a specific interval, you must consider related off-set and analogous well behavior observations, if available.

* * * * *

■ 6. Amend § 250.420 by revising paragraph (a)(6) to read as follows:

§ 250.420 What well casing and cementing requirements must I meet?

* * * * *

(a) * * *

(6) Provide adequate centralization consistent with the guidelines of API Standard 65—Part 2 (as incorporated by reference in § 250.198); and

* * * * *

■ 7. Amend § 250.421 by revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 250.421 What are the casing and cementing requirements by type of casing string?

* * * * *

BILLING CODE 4310–VH–P

Casing type	Casing requirements	Cementing requirements
* * * * * * *		
(c) Surface	Design casing and select setting depths based on relevant engineering and geologic factors. These factors include the presence or absence of hydrocarbons, potential hazards, and water depths	Use enough cement to fill the calculated annular space to at least 200 feet measured depth (MD) inside the conductor casing. When geologic conditions such as near-surface fractures and faulting exist, you must use enough cement to fill the calculated annular space to the mudline.
(d) Intermediate	Design casing and select setting depth based on anticipated or encountered geologic characteristics or wellbore conditions	Use enough cement to cover and isolate all hydrocarbon-bearing zones and isolate abnormal pressure intervals from normal pressure intervals in the well. As a minimum, you must cement the annular space 500 feet MD above the casing shoe and 500 feet MD above each zone to be isolated.
(e) Production	Design casing and select setting depth based on anticipated or encountered geologic characteristics or wellbore conditions	Use enough cement to cover or isolate all hydrocarbon-bearing zones above the shoe. As a minimum, you must cement the annular space at least 500 feet MD above the casing shoe and 500 feet MD above the uppermost hydrocarbon-bearing zone.
(f) Liners	If you use a liner as surface casing, you must set the top of the liner at least 200 feet MD above the previous casing/liner shoe. If you use a liner as an intermediate string below a surface string or production casing below an intermediate string, you must set the top of the liner at least 100 feet MD above the previous casing shoe. You may not use a liner as conductor casing. A subsea well casing string whose top is above the mudline and that has been cemented back to the mudline will not be considered a liner.	Same as cementing requirements for specific casing types. For example, a liner used as intermediate casing must be cemented according to the cementing requirements for intermediate casing.

■ 8. Amend § 250.423 by revising paragraphs (a) and (b) to read as follows:

§ 250.423 What are the requirements for casing and liner installation?

* * * * *

(a) You must ensure that the latching mechanisms or lock down mechanisms are engaged upon successfully installing the casing string. If there is an indication of an inadequate cement job, you must comply with § 250.428(c).

(b) If you run a liner that has a latching mechanism or lock down mechanism, you must ensure that the latching mechanisms or lock down mechanisms are engaged upon successfully installing the liner. If there is an indication of an inadequate cement job, you must comply with § 250.428(c).

* * * * *

■ 9. Amend § 250.428 by revising paragraphs (c) and (d) to read as follows:

§ 250.428 What must I do in certain cementing and casing situations?

* * * * *

If you encounter the following situation:	Then you must . . .
* * * * * * *	
(c) Have indication of inadequate cement job (such as unplanned lost returns, no cement returns to mudline or expected height, cement channeling, or failure of equipment),	(1) Locate the top of cement by: (i) Running a temperature survey; (ii) Running a cement evaluation log; (iii) Using tracers in the cement and logging them prior to drill out; or (iv) Using a combination of these techniques. (2) Determine if your cement job is inadequate. If your cement job is determined to be inadequate, refer to paragraph (d) of this section. (3) If your cement job is determined to be adequate, report the results to the District Manager in your submitted WAR.
(d) Inadequate cement job,	Comply with § 250.428(c)(1), and take remedial actions. The District Manager must review and approve all remedial actions either through a previously approved contingency plan within the permit or remedial actions included in a revised permit before you may take them, unless immediate actions must be taken to ensure the safety of the crew or to prevent a well-control event. If you complete any immediate action to ensure the safety of the crew or to prevent a well-control event, submit a description of the action to the District Manager when that action is complete. Any changes to the well program, that are not included in the approved permit, will require submittal of a certification by a professional engineer (PE) certifying that they have reviewed and approved the proposed changes. You must also meet any other requirements of the District Manager for remedial actions.
* * * * * * *	

BILLING CODE 4310–VH–C

■ 10. Amend § 250.433 by revising paragraph (b) to read as follows:

§ 250.433 What are the diverter actuation and testing requirements?

* * * * *

(b) For floating drilling operations with a subsea BOP stack, you must actuate the diverter system within 7 days after the previous actuation. For subsequent testing, you may partially actuate the diverter element and a flow test is not required.

* * * * *

■ 11. Amend § 250.461 by revising paragraph (b) to read as follows:

§ 250.461 What are the requirements for directional and inclination surveys?

* * * * *

(b) *Survey requirements for directional well.* You must conduct directional surveys on each directional well and digitally record the results. Surveys must give both inclination and azimuth at intervals not to exceed 500 feet during the normal course of drilling. Intervals during angle-changing portions of the hole may not exceed 180 feet.

* * * * *

■ 12. Amend § 250.462 by revising paragraphs (b) introductory text, (e)(1)(ii), (e)(3), and (e)(4) to read as follows:

§ 250.462 What are the source control, containment, and collocated equipment requirements?

* * * * *

(b) You must have access to and the ability to deploy Source Control and Containment Equipment (SCCE) and all other necessary supporting and collocated equipment to regain control of the well. SCCE means the capping stack, cap-and-flow system, containment dome, and/or other subsea and surface devices, equipment, and vessels, which have the collective purpose to control a spill source and stop the flow of fluids into the environment or to contain fluids escaping into the environment based on the determinations outlined in paragraph (a) of this section. This SCCE, supporting equipment, and collocated equipment may include, but is not limited to, the following:

* * * * *

(e) * * *

Equipment	Requirements, you must:	Additional information
(1) * * *		
	(ii) Pressure test pressure containing critical components on a bi-annual basis, but not later than 210 days from the last pressure test. All pressure testing must be witnessed by BSEE (if available) and an independent third party.	Pressure containing critical components are those components that will experience wellbore pressure during a shut-in. These components include, but are not limited to: All blind rams, wellhead connectors, and outlet valves.
* * * * * * *		
(3) Subsea utility equipment,	Have all equipment utilized solely for containment operations available for inspection at all times	Subsea utility equipment includes, but is not limited to: Hydraulic power sources, debris removal, and hydrate control equipment.
(4) Collocated equipment designated by the operator in the Regional Containment Demonstration (RCD) or Well Containment Plan (WCP),	Have equipment available for inspection at all times	Collocated equipment includes, but is not limited to, dispersant injection equipment and other subsea control equipment

Subpart E—Oil and Gas Well-Completion Operations

■ 13. Amend § 250.518 by revising paragraph (e)(1) to read as follows:

§ 250.518 Tubing and wellhead equipment.

* * * * *

(e) * * *

(1) All permanently installed packers and bridge plugs qualified as mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198);

* * * * *

■ 14. Revise § 250.519 to read as follows:

§ 250.519 What are the requirements for casing pressure management?

Once you install your wellhead, you must meet the casing pressure management requirements of API RP 90 (as incorporated by reference in § 250.198) and the requirements of §§ 250.519 through 250.531. If there is a conflict between API RP 90 and the casing pressure requirements of this subpart, you must follow the requirements of this subpart.

■ 15. Revise § 250.522 to read as follows:

§ 250.522 How do I manage the thermal effects caused by initial production on a newly completed or recompleted well?

A newly completed or recompleted well often has thermal casing pressure during initial startup. Bleeding casing pressure during the startup process is considered a normal and necessary operation to manage thermal casing pressure; therefore, you do not need to evaluate these operations as a casing diagnostic test. After 30 days of continuous production, the initial production startup operation is complete and you must perform casing diagnostic testing as required in §§ 250.521 and 250.523.

■ 16. Amend § 250.525 by revising paragraph (d) to read as follows:

§ 250.525 When am I required to take action from my casing diagnostic test?

* * * * *

(d) Any well that has sustained casing pressure (SCP) and is bled down to prevent it from exceeding its MAWOP, except during initial startup operations described in § 250.522;

* * * * *

■ 17. Revise § 250.526 to read as follows:

§ 250.526 What do I submit if my casing diagnostic test requires action?

Within 14 days after you perform a casing diagnostic test requiring action under § 250.525:

You must submit either . . .	to the appropriate . . .	and it must include . . .	You must also . . .
(a) a notification of corrective action; or,	District Manager and copy the Regional Supervisor, Field Operations,	requirements under § 250.527,	submit an Application for Permit to Modify or Corrective Action Plan within 30 days of the diagnostic test.
(b) a casing pressure request,	Regional Supervisor, Field Operations,	requirements under § 250.528.	

■ 18. Amend § 250.530 by revising paragraph (b) to read as follows:

§ 250.530 What if my casing pressure request is denied?

* * * * *

(b) You must submit the casing diagnostic test data to the appropriate Regional Supervisor, Field Operations, within 14 days of completion of the diagnostic test required under § 250.523(e).

Subpart F—Oil and Gas Well-Workover Operations

■ 19. Amend § 250.601 by adding paragraph (m) to the definition of ''routine operations'' to read as follows:

§ 250.601 Definitions.

* * * * *

(m) Acid treatments

* * * * *

■ 20. Remove and reserve § 250.616.

§ 250.616 [Reserved]

■ 21. Amend § 250.619 by revising paragraph (e)(1) to read as follows:

§ 250.619 Tubing and wellhead equipment.

* * * * *

(e) * * *

(1) All permanently installed packers and bridge plugs qualified as mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198). You must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment;

* * * * *

Subpart G—Well Operations and Equipment

■ 22. Amend § 250.712 by adding paragraphs (g) and (h) to read as follows:

§ 250.712 What rig unit movements must I report?

* * * * *

(g) You are not required to report rig unit movements to and from the safe zone during the course of permitted operations.

(h) If a rig unit is already on a well, you are not required to report any additional rig unit movements on that well.

■ 23. Amend § 250.720 by revising paragraph (a)(1) and adding paragraphs (a)(3) and (d) to read as follows:

§ 250.720 When and how must I secure a well?

(a) * * *

(1) The events that would cause you to interrupt operations and notify the District Manager include, but are not limited to, the following:

(i) Evacuation of the rig crew;

(ii) Inability to keep the rig on location;

(iii) Repair to major rig or well-control equipment;

(iv) Observed flow outside the well's casing (*e.g.,* shallow water flow or bubbling); or

(v) Impending National Weather Service-named tropical storm or hurricane.

* * * * *

(3) If you unlatch the BOP or LMRP:

(i) Upon relatch of the BOP, you must test according to § 250.734(b)(2), or

(ii) Upon relatch of the LMRP, you must test according to § 250.734(b)(3); and

(iii) You must receive District Manager approval before resuming operations.

* * * * *

(d) For subsea completed wells with a tree installed, you must have the equipment and capabilities for intervention on those wells. All equipment utilized solely for intervention operations (*e.g.,* tree interface tools) must be readily available, maintained in accordance with OEM recommendations, and available for inspection by BSEE upon request.

■ 24. Amend § 250.722 by revising paragraph (a)(2) to read as follows:

§ 250.722 What are the requirements for prolonged operations in a well?

* * * * *

(a) * * *

(2) Report the results of your evaluation to the District Manager and obtain approval of those results before resuming operations. Your report must include calculations that indicate the well's integrity is above the minimum safety factors, if an imaging tool or caliper is used. District Manager approval is not required to resume operations if you conducted a successful pressure test as approved in your permit. You must document the successful pressure test in the WAR.

* * * * *

■ 25. Amend § 250.723 by revising the introductory text and paragraph (c)(3) to read as follows:

§ 250.723 What additional safety measures must I take when I conduct operations on a platform that has producing wells or has other hydrocarbon flow?

You must take the following safety measures when you conduct operations with a rig unit on or jacked-up over a platform with producing wells or that has other hydrocarbon flow:

* * * * *

(c) * * *

(3) A MODU moves within 500 feet of a platform. You may resume production once the MODU is in place, secured, and ready to begin operations.

* * * * *

■ 26. Revise § 250.724 to read as follows:

§ 250.724 What are the real-time monitoring requirements?

(a) No later than April 29, 2019, when conducting well operations with a subsea BOP or with a surface BOP on a floating facility, or when operating in an high pressure high temperature (HPHT) environment, you must gather and monitor real-time well data using an independent, automatic, and continuous monitoring system capable of recording, storing, and transmitting data regarding the following:

(1) The BOP control system;

(2) The well's fluid handling system on the rig; and

(3) The well's downhole conditions with the bottom hole assembly tools (if any tools are installed).

(b) You must develop and implement a real-time monitoring plan. Your real-time monitoring plan, and all real-time monitoring data, must be made available to BSEE upon request. Your real-time monitoring plan must include the following:

(1) A description of your real-time monitoring capabilities, including the types of the data collected;

(2) A description of how your real-time monitoring data will be transmitted during operations, how the data will be labeled and monitored by qualified personnel, and how the data will be stored as required in §§ 250.740 and 250.741;

(3) A description of your procedures for providing BSEE access, upon request, to your real-time monitoring data;

(4) The qualifications of the personnel monitoring the data;

(5) Your procedures for, and methods of, communication between rig personnel and the monitoring personnel; and

(6) Actions to be taken if you lose any real-time monitoring capabilities or communications between rig personnel and monitoring personnel, and a protocol for how you will respond to any significant and/or prolonged interruption of monitoring capabilities or communications, including your protocol for notifying BSEE of any significant and/or prolonged interruptions.

■ 27. Revise § 250.730 to read as follows:

§ 250.730 What are the general requirements for BOP systems and system components?

(a) You must ensure that the BOP system and system components are designed, installed, maintained, inspected, tested, and used properly to ensure well control. The working-pressure rating of each BOP component (excluding annular(s)) must exceed MASP as defined for the operation. For a subsea BOP, the MASP must be taken at the mudline. The BOP system includes the BOP stack, control system, and any other associated system(s) and equipment. The BOP system and individual components must be able to perform their expected functions and be compatible with each other. Your BOP system must be capable of closing and sealing the wellbore in the event of flow due to a kick, including under anticipated flowing conditions for the specific well conditions, without losing ram closure time and sealing integrity due to the corrosiveness, volume, and abrasiveness of any fluids in the wellbore that the BOP system may encounter. Your BOP system must meet the following requirements:

(1) The BOP requirements of API Standard 53 (incorporated by reference in § 250.198) and the requirements of §§ 250.733 through 250.739. If there is a conflict between API Standard 53 and the requirements of this subpart, you must follow the requirements of this subpart.

(2) The provisions of the following industry standards (all incorporated by reference in § 250.198) that apply to BOP systems:

(i) ANSI/API Spec. 6A;

(ii) ANSI/API Spec. 16A;

(iii) ANSI/API Spec. 16C;

(iv) API Spec. 16D; and

(v) ANSI/API Spec. 17D.

(3) For surface and subsea BOPs, the pipe and variable bore rams installed in the BOP stack must be capable of effectively closing and sealing on the tubular body of any drill pipe, workstring, and tubing (excluding tubing with exterior control lines and flat packs) in the hole under MASP, as defined for the operation, with the proposed regulator settings of the BOP control system.

(4) The current set of approved schematic drawings must be available on the rig and at an onshore location. If you make any modifications to the BOP or control system that will change your BSEE-approved schematic drawings, you must suspend operations until you obtain approval from the District Manager.

(b) You must ensure that the design, fabrication, maintenance, and repair of your BOP system is in accordance with the requirements contained in this part, applicable Original Equipment Manufacturers (OEM) recommendations unless otherwise directed by BSEE, and recognized engineering practices. The training and qualification of repair and maintenance personnel must meet or exceed applicable OEM training recommendations unless otherwise directed by BSEE.

(c) You must follow the failure reporting procedures contained in API Standard 53, (incorporated by reference in § 250.198), and:

(1) You must provide a written notice of equipment failure to BSEE, unless BSEE has designated a third party as provided in paragraph (d) of this section, and the manufacturer of such equipment within 30 days after the discovery and identification of the failure. A failure is any condition that prevents the equipment from meeting the functional specification.

(2) You must ensure that an investigation and a failure analysis are started within 120 days of the failure to determine the cause of the failure, and are completed within 120 days upon starting the investigation and failure analysis. You must also ensure that the results and any corrective action are documented. You must ensure that the analysis report is submitted to BSEE, unless BSEE has designated a third party as provided in paragraph (c)(4) of this section, as well as the manufacturer.

(3) If the equipment manufacturer notifies you that it has changed the design of the equipment that failed or if you have changed operating or repair procedures as a result of a failure, then you must, within 30 days of such changes, report the design change or modified procedures in writing to BSEE, unless BSEE has designated a third party as provided in paragraph (c)(4) of this section.

(4) BSEE may designate a third party to receive the data and reports on behalf of BSEE. If BSEE designates a third party, you must submit the data and reports to the designated third party.

(d) If you plan to use a BOP stack manufactured after the effective date of this regulation, you must use one manufactured pursuant to an ANSI/API Spec. Q1 (as incorporated by reference in § 250.198) quality management system. Such quality management system must be certified by an entity that meets the requirements of ISO/IEC 17021–1 (as incorporated by reference in § 250.198).

(1) BSEE may consider accepting equipment manufactured under quality assurance programs other than ANSI/API Spec. Q1, provided you submit a request to the Chief, Office of Offshore Regulatory Programs for approval, containing relevant information about the alternative program.

(2) You must submit this request to the Chief, Office of Offshore Regulatory Programs; Bureau of Safety and Environmental Enforcement; 45600 Woodland Road, Sterling, Virginia 20166.

■ 28. Amend § 250.731 by:

■ a. Removing paragraphs (d) and (f);

■ b. Redesignating existing paragraph (e) as (d); and

■ c. Revising paragraphs (a)(5) and (c) to read as follows:

§ 250.731 What information must I submit for BOP systems and system components?

* * * * *

BILLING CODE 4310–VH–P

You must submit:	Including:
(a) * * *	(5) Control system pressure and regulator settings needed to close each ram BOP under MASP as defined for the operation;
* * * * * * *	
(c) Certification by an independent third party,	Verification that: (1) Test data demonstrate the shear ram(s) will shear the drill pipe at the water depth as required in § 250.732; (2) The BOP was designed, tested, and maintained to perform under the maximum environmental and operational conditions anticipated to occur at the well; (3) The accumulator system has sufficient fluid to operate the BOP system without assistance from the charging system; and (4) If using a subsea BOP, a BOP in an HPHT environment as defined in § 250.804(b), or a surface BOP on a floating facility, the BOP has not been compromised or damaged from previous service.
* * * * * * *	

■ 29. Revise § 250.732 and the section heading to read as follows:

§ 250.732 What are the independent third party requirements for BOP systems and system components?

(a) Prior to beginning any operation requiring the use of any BOP, you must submit verification by an independent third party and supporting documentation as required by this paragraph to the appropriate District Manager and Regional Supervisor.

You must submit verification and documentation related to:	That:
(1) Shear testing,	(i) Demonstrates that the BOP will shear the drill pipe and any electric-, wire-, and slick-line to be used in the well;
	(ii) Demonstrates the use of test protocols and analysis that represent recognized engineering practices for ensuring the repeatability and reproducibility of the tests, and that the testing was performed by a facility that meets generally accepted quality assurance standards;
	(iii) Provides a reasonable representation of field applications, taking into consideration the physical and mechanical properties of the drill pipe;
	(iv) Demonstrates the shearing capacity of the BOP equipment to the physical and mechanical properties of the drill pipe; and
	(v) Includes relevant testing results.
(2) Pressure integrity testing, and	(i) Shows that testing is conducted immediately after the shearing tests;
	(ii) Demonstrates that the equipment will seal at the rated working pressures (RWP) of the BOP for 5 minutes; and
	(iii) Includes all relevant test results.
(3) Calculations	Include shearing and sealing pressures for all pipe to be used in the well including corrections for MASP.

(b) The independent third-party must be a technical classification society, or a licensed professional engineering firm, or a registered professional engineer capable of providing the required certifications and verifications.

(c) For wells in an HPHT environment, as defined by § 250.804(b), you must submit verification by an independent third party that the independent third party conducted a comprehensive review of the BOP system and related equipment you propose to use. You must provide the independent third party access to any facility associated with the BOP system or related equipment during the review process. You must submit the verifications required by this paragraph (c) to the appropriate District Manager and Regional Supervisor before you begin any operations in an HPHT environment with the proposed equipment.

You must submit:	Including:
(1) Verification that the independent third party conducted a detailed review of the design package to ensure that all critical components and systems meet recognized engineering practices,	
(2) Verification that the designs of individual components and the overall system have been proven in a testing process that demonstrates the performance and reliability of the equipment in a manner that is repeatable and reproducible,	(i) Identification of all reasonable potential modes of failure; and (ii) Evaluation of the design verification tests. The design verification tests must assess the equipment for the identified potential modes of failure.
(3) Verification that the BOP equipment will perform as designed in the temperature, pressure, and environment that will be encountered, and	
(4) Verification that the fabrication, manufacture, and assembly of individual components and the overall system uses recognized engineering practices and quality control and assurance mechanisms.	For the quality control and assurance mechanisms, complete material and quality controls over all contractors, subcontractors, distributors, and suppliers at every stage in the fabrication, manufacture, and assembly process.

(d) You must make all documentation that supports the requirements of this section available to BSEE upon request.

■ 30. Amend § 250.733 by:

■ a. Revising paragraphs (a)(1) and (b)(1); and

■ b. Adding paragraph (e) to read as follows:

§ 250.733 What are the requirements for a surface BOP stack?

(a) * * *

(1) The blind shear rams must be capable of shearing at any point along the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies that include heavy-weight pipe or collars), workstring, tubing and associated exterior control lines, and any electric-wire-, and slick-line that is in the hole and sealing the wellbore after shearing.

* * * * *

(b) * * *

(1) For BOPs installed after April 29, 2021, follow the BOP requirements in § 250.734(a)(1).

* * * * *

(e) Additional requirements for surface BOP systems used in well-completion, workover, and decommissioning operations.

The minimum BOP system for well-completion, workover, and decommissioning operations must meet the appropriate standards from the following table:

When . . .	The minimum BOP stack must include . . .
(1) The expected pressure is less than 5,000 psi,	Three BOPs consisting of an annular, one set of pipe rams, and one set of blind-shear rams.
(2) The expected pressure is 5,000 psi or greater or you use multiple tubing strings,	Four BOPs consisting of an annular, two sets of pipe rams, and one set of blind-shear rams.
(3) You handle multiple tubing strings simultaneously,	Four BOPs consisting of an annular, one set of pipe rams, one set of dual pipe rams, and one set of blind-shear rams.
(4) You use a tapered drill string,	At least one set of pipe rams that are capable of sealing around each size of drill string. If the expected pressure is greater than 5,000 psi, then you must have at least two sets of pipe rams that are capable of sealing around the larger size drill string. You may substitute one set of variable bore rams for two sets of pipe rams.
(5) You use a surface BOP on a floating facility,	The elements required by § 250.733(b)(1) of this part.

■ 31. Amend § 250.734 by:

■ a. Removing paragraphs (a)(6)(v) and (vi); and

■ b. Revising paragraphs (a)(1)(ii), (a)(3), (a)(4), (a)(6)(iv), (a)(16), and (b) to read as follows:

§ 250.734 What are the requirements for a subsea BOP system?

(a) * * *

When operating with a subsea BOP system, you must:	Additional requirements
(1) * * *	(ii) A combination of the shear rams must be capable of shearing at any point along the tubular body of any drill pipe (excluding tool joints, bottom-hole tools, and bottom hole assemblies such as heavy-weight pipe or collars), workstring, tubing and associated exterior control lines, appropriate area for the liner or casing landing string, shear sub on subsea test tree, and any electric-, wire-, slick-line in the hole; under MASP. At least one shear ram must be capable of sealing the wellbore after shearing under MASP conditions as defined for the operation. Any non-sealing shear ram(s) must be installed below a sealing shear ram(s).
* * * * * * *	
(3) Have the accumulator capacity, to provide fast closure of the BOP components and to operate all critical functions;	The accumulator capacity must: (i) Close each required shear ram, ram locks, one pipe ram, and disconnect the LMRP. (ii) Have the capability to perform ROV functions within the required times outlined in API Standard 53 with ROV or flying leads. (iii) No later than April 29, 2021, have bottles for the autoshear and deadman (which may be shared between those two systems) to secure the wellbore. These bottles may also be utilized to perform the secondary control system functions (*e.g.*, ROV or acoustic functions). (iv) Perform under MASP conditions as defined for the operation.
(4) * * *	The ROV must be capable of closing each shear ram, ram locks, one pipe ram, and disconnecting the LMRP under MASP conditions as defined for the operation. The ROV must be capable of performing these functions in the response times outlined in API Standard 53 (as incorporated by reference in § 250.198). The ROV panels on the BOP and LMRP must be compliant with API RP 17H (as incorporated by reference in § 250.198).
* * * * * * *	
(6) * * *	(iv) Autoshear/deadman functions must close, at a minimum, two shear rams in sequence and be capable of performing their expected shearing and sealing action under MASP conditions as defined for the operation.
* * * * * * *	
(16) Use a BOP system that has the following mechanisms and capabilities;	If your control pods contain a subsea electronic module with batteries, a mechanism for personnel on the rig to monitor the state of charge of the subsea electronic module batteries in the BOP control pods.

(b) If you suspend operations to make repairs to any part of the subsea BOP system, you must stop operations at a safe downhole location. Before resuming operations you must:

(1) Submit a revised permit with a verification report from an independent third party documenting the repairs and that the BOP is fit for service;

(2) Upon relatch of the BOP, perform an initial subsea BOP test in accordance with § 250.737(d)(4), including deadman in accordance with § 250.737(d)(12)(vi). If repairs take longer than 30 days, once the BOP is on deck, you must test in accordance with the requirements of § 250.737;

(3) Upon relatch of the LMRP, you must test according to the following:

(i) Pressure test riser connector/gasket in accordance with § 250.737(b) and (c);

(ii) Pressure test choke and kill stabs at LMRP/BOP interface in accordance with § 250.737(b) and (c);

(iii) Full function test of both pods and both control panels;

(iv) Verify acoustic pod communication (if equipped); and

(v) Deadman test with pressure test in accordance with § 250.737(d)(12)(vi).

(4) Receive approval from the District Manager.

* * * * *

■ 32. Amend § 250.735 by revising paragraph (a) to read as follows:

§ 250.735 What associated systems and related equipment must all BOP systems include?

* * * * *

(a) An accumulator system (as specified in API Standard 53, and incorporated by reference in § 250.198). Your accumulator system must have the fluid volume capacity and appropriate pre-charge pressures in accordance with API Standard 53. If you supply the accumulator regulators by rig air and do not have a secondary source of pneumatic supply, you must equip the regulators with manual overrides or other devices to ensure capability of hydraulic operations if rig air is lost;

* * * * *

■ 33. Amend § 250.736 by revising paragraph (d)(5) to read as follows:

§ 250.736 What are the requirements for choke manifolds, kelly-type valves inside BOPs, and drill string safety valves?

* * * * *

(d) * * *

(5) When running casing, a safety valve in the open position available on the rig floor to fit the casing string being run in the hole. For subsea BOPs, the safety valve must be available on the rig floor if the length of casing being run exceeds the water depth, which would result in the casing being across the BOP stack and the rig floor prior to crossing over to the drill pipe running string;

* * * * *

■ 34. Amend § 250.737 by:

■ a. Removing paragraph (d)(4)(vi),

■ b. Adding paragraph (d)(13), and

■ c. Revising paragraphs (b) introductory text, (b)(2), (d)(2)(ii), (d)(3)(iii), (d)(3)(iv), (d)(3)(v), (d)(4)(i), (d)(4)(iii), (d)(4)(v), (d)(5), (d)(12)(iv) and (d)(12)(vi) to read as follows:

§ 250.737 What are the BOP system testing requirements?

* * * * *

(b) Pressure test procedures. When you pressure test the BOP system, you must conduct a low-pressure test and a high-pressure test for each BOP component (excluding test rams and non-sealing shear rams). You must begin each test by conducting the low-pressure test then transition to the high-pressure test. Each individual pressure test must hold pressure long enough to demonstrate the tested component(s) holds the required pressure. The table in this paragraph (b) outlines your pressure test requirements.

You must conduct a . . .	According to the following procedures . . .
* * * * * * *	
(2) High-pressure test for blind shear ram-type BOPs, ram-type BOPs, the choke manifold, outside of all choke and kill side outlet valves (and annular gas bleed valves for subsea BOP), inside of all choke and kill side outlet valves below uppermost ram, and other BOP components	(i) The high-pressure test must equal the RWP of the equipment or be 500 psi greater than your calculated MASP, as defined for the operation for the applicable section of hole. Before you may test BOP equipment to the MASP plus 500 psi, the District Manager must have approved those test pressures in your permit. (ii) The blind shear ram (BSR) must be tested to: (A) MASP plus 500 psi for the hole section to which it is exposed; or (B) Full well MASP plus 500 psi on initial latch up and all subsequent BSR pressure tests can be done to the casing/liner test pressure for the applicable hole section. (iii) The choke and kill side outlet valves must be tested to, except as provided in paragraph (d)(13) of this section: (A) MASP plus 500 psi for the hole section to which it is exposed; or (B) Full well MASP plus 500 psi on initial latch up and all subsequent pressure tests can be done to the casing/liner test pressure for the applicable hole section.
* * * * * * *	

* * * * *

(d) * * *

You must…	Additional requirements…
(2) * * *	(ii) Contact the District Manager at least 72 hours prior to beginning the initial test to allow BSEE representative(s) to witness testing.
(3) * * *	(iii) Contact the District Manager at least 72 hours prior to beginning the stump test to allow BSEE representative(s) to witness testing
	(iv) You must verify closure of all ROV intervention functions on your subsea BOP stack during the stump test.
	(v) You must follow paragraphs (b) and (c) of this section. Pressure testing of each ram and annular component is only required once.
(4) * * *	(i) You must begin the initial subsea BOP test on the seafloor within 30 days of the stump test.
* * * * * * *	
	(iii) You must pressure test well-control rams and annulars according to paragraphs (b) and (c) of this section.
* * * * * * *	
	(v) You must test and verify closure of at least one set of rams during the initial subsea test through a ROV hot stab. You must confirm closure of the selected ram through the ROV hot stab with a 1,000 psi pressure test for 5 minutes.
(5) Alternate tests between control stations	(i) For two complete BOP control stations you must: (A) Designate a primary and secondary station; (B) Alternate testing between the primary and secondary control stations on a weekly basis; and (C) For a subsea BOP, develop an alternating testing schedule to ensure the primary and secondary control stations will function each pod. (ii) Remote panels where all BOP functions are not included (*e.g.*, life boat panels) must be function-tested upon the initial BOP tests.
* * * * * * *	
(12) * * *	(iv) Following the deadman system test on the seafloor you must document the final remaining pressure of the subsea accumulator system.
* * * * * * *	
	(vi) You must confirm closure of the BSR(s) with a 1,000 psi pressure test for 5 minutes.
* * * * * * *	
(13) Pressure test the choke and kill side outlet valves	According to paragraph (b), except as follows: (i) For 14 day BOP testing, test the wellbore side of the choke and kill side outlet valves above the uppermost pipe ram to the approved annular test pressure. Choke and kill side outlet valves below the uppermost pipe ram must be tested to MASP plus 500 psi for the applicable hole section. (ii) For the 30 day BSR testing, test the wellbore side of the choke and kill side outlet valves between the upper most pipe ram and the upper most ram, to the casing/liner test pressure or annular test pressure, whichever is greater. (iii) For BOPs with only one choke and kill side outlet valve, you are only required to pressure test the choke and kill side outlet valves from the wellbore side.

* * * * *

■ 35. Amend § 250.738 by revising paragraphs (b)(4), (f), (i), (m), and (o) to read as follows:

§ 250.738 What must I do in certain situations involving BOP equipment or systems?

* * * * *

If you encounter the following situation:	Then you must . . .
(b) * * *	(4) You must submit a report from an independent third party to the District Manager certifying that the BOP is fit for service
* * * * * * *	
(f) Plan to install casing rams or casing shear rams in a surface BOP stack;	Before running casing, perform a shell test to the permit approved test pressure of the BOP component above the casing ram/casing shear. If this installation was not included in your approved permit, and changes the BOP configuration approved in the APD or APM, you must notify and receive approval from the District Manager
* * * * * * *	
(i) You activate any shear ram and pipe or casing is sheared;	Retrieve, physically inspect, and conduct a full pressure test of the BOP stack after the situation is fully controlled. You must submit to the District Manager a report from an independent third party certifying that the BOP is fit to return to service.
* * * * * * *	
(m) Plan to utilize any other circulating or ancillary equipment (*e.g.*, but not limited to, subsea isolation device, subsea accumulator module, or gas handler) that is in addition to the equipment required in this subpart;	Contact the District Manager and request approval in your APD or APM. Your request must include a report from an independent third party on the equipment's design and suitability for its intended use as well as any other information required by the District Manager. The District Manager may impose any conditions regarding the equipment's capabilities, operation, and testing.
* * * * * * *	
(o) You install redundant components for well control in your BOP system that are in addition to the required components of this subpart (*e.g.*, pipe/variable bore rams, shear rams, annular preventers, gas bleed lines, and choke/kill side outlets or lines);	Comply with all testing, maintenance, and inspection requirements in this subpart that are applicable to those well-control components. If any redundant component fails a test, you must submit a report from an independent third party that describes the failure and confirms that there is no impact on the BOP that will make it unfit for well-control purposes. You must submit this report to the District Manager and receive approval before resuming operations. The District Manager may require you to provide additional information as needed to clarify or evaluate your report.
* * * * * * *	

■ 36. Amend § 250.739 by revising paragraph (b) introductory text to read as follows:

§ 250.739 What are the BOP maintenance and inspection requirements?

* * * * *

(b) A major, detailed inspection of the well control system components (including but not limited to riser, BOP, LMRP, and control pods) must be performed every 5 years. This major inspection may be performed in phased intervals. You must track and document all system and component inspection dates. These records must be available on the rig. An independent third party is required to review the inspection results and must compile a detailed report of the inspection results, including descriptions of any problems and how they were corrected. You must make these reports available to BSEE upon request. This major inspection must be performed every 5 years from the following applicable dates, whichever is later:

* * * * *

■ 37. Add § 250.750 and undesignated center heading to read as follows:

Coiled Tubing and Snubbing Operations

§ 250.750 What are the coiled tubing and snubbing requirements?

(a) For coiled tubing operations with the production tree in place, you must meet the following minimum requirements for the BOP system:

(1) BOP system components must be in the following order from the top down:

BOP system when expected surface pressures are less than or equal to 3,500 psi	BOP system when expected surface pressures are greater than 3,500 psi	BOP system for wells with returns taken through an outlet on the BOP stack
(i) Stripper or annular-type well control component	Stripper or annular-type well control component	Stripper or annular-type well control component.
(ii) Hydraulically-operated blind rams	Hydraulically-operated blind rams	Hydraulically-operated blind rams
(iii) Hydraulically-operated shear rams	Hydraulically-operated shear rams	Hydraulically-operated shear rams.
(iv) Kill line inlet	Kill line inlet	Kill line inlet.
(v) Hydraulically-operated two-way slip rams	Hydraulically-operated two-way slip rams	Hydraulically-operated two-way slip rams. Hydraulically-operated pipe rams.
(vi) Hydraulically-operated pipe rams	Hydraulically-operated pipe rams Hydraulically-operated blind-shear rams. These rams should be located as close to the tree as practical	A flow tee or cross. Hydraulically-operated pipe rams. Hydraulically-operated blind-shear rams on wells with surface pressures >3,500 psi. As an option, the pipe rams can be placed below the blind-shear rams. The blind-shear rams should be located as close to the tree as practical.

(2) You may use a set of hydraulically-operated combination rams for the blind rams and shear rams.

(3) You may use a set of hydraulically-operated combination rams for the hydraulic two-way slip rams and the hydraulically-operated pipe rams.

(4) You must attach a dual check valve assembly to the coiled tubing connector at the downhole end of the coiled tubing string for all coiled tubing operations. If you plan to conduct operations without downhole check valves, you must describe alternate procedures and equipment in Form BSEE–0124, Application for Permit to Modify and have it approved by the District Manager.

(5) You must have a kill line and a separate choke line. You must equip each line with two full-opening valves and at least one of the valves must be remotely controlled. You may use a manual valve instead of the remotely controlled valve on the kill line if you install a check valve between the two full-opening manual valves and the pump or manifold. The valves must have a working pressure rating equal to or greater than the working pressure rating of the connection to which they are attached, and you must install them between the well control stack and the choke or kill line. For operations with expected surface pressures greater than 3,500 psi, the kill line must be connected to a pump or manifold. You must not use the kill line inlet on the BOP stack for taking fluid returns from the wellbore.

(6) You must have a hydraulic-actuating system that provides sufficient accumulator capacity to close-open-close each component in the BOP stack. This cycle must be completed with at least 200 psi above the pre-charge pressure, without assistance from a charging system.

(7) All connections used in the surface BOP system from the tree to the uppermost required ram must be flanged, including the connections between the well control stack and the first full-opening valve on the choke line and the kill line.

(b) The minimum BOP-system components for operations with the tree in place and performed by moving tubing or drill pipe in or out of a well under pressure utilizing equipment specifically designed for that purpose, *i.e.,* snubbing operations, shall include the following:

(1) One set of pipe rams hydraulically operated, and

(2) Two sets of stripper-type pipe rams hydraulically operated with spacer spool.

(c) An inside BOP or a spring-loaded, back-pressure safety valve and an essentially full-opening, work-string safety valve in the open position must be maintained on the rig floor at all times during operations when the tree is removed or during operations with the tree installed and using small tubing as the work string. A wrench to fit the work-string safety valve must be readily available. Proper connections must be readily available for inserting valves in the work string. The full-opening safety valve is not required for coiled tubing or snubbing operations.

(d) Test the snubbing unit in accordance with § 250.737(a), (b), and (c).

■ 38. Add § 250.751 to read as follows:

§ 250.751 Coiled tubing testing requirements.

Coiled tubing tests. You must test the coiled tubing unit in accordance with § 250.737(a), (b), (c), (d)(9), and (d)(10). You must successfully pressure test the dual check valves to the rated working pressure of the connector, the rated working pressure of the dual check valve, expected surface pressure, or the collapse pressure of the coiled tubing, whichever is less. The test interval for coiled tubing operations must include a 10 minute high-pressure test for the coiled tubing string.

Subpart Q—Decommissioning Activities

■ 39. Amend § 250.1703 by revising paragraph (b) to read as follows:

§ 250.1703 What are the general requirements for decommissioning?

* * * * *

(b) Permanently plug all wells. Packers and bridge plugs used as qualified mechanical barriers must comply with ANSI/API Spec. 11D1 (as incorporated by reference in § 250.198). You must have two independent barriers, one being mechanical, in the exposed center wellbore prior to removing the tree and/or well control equipment;

* * * * *

■ 40. Amend § 250.1704 by adding paragraph (g)(4) and revising paragraph (h)(2) to read as follows:

§ 250.1704 What decommissioning applications and reports must I submit and when must I submit them?

* * * * *

Decommissioning applications and reports	When to submit	Instructions
* * * * * * *		
(g) * * *	(4) Within 30 days after you complete site clearance verification activities,	Include information required under § 250.1743(a).
(h) * * *	(2) Within 30 days after completion of decommissioning activity,	Include information required under §§ 250.1712 and 250.1721.
* * * * * * *		

■ 41. Remove and reserve § 250.1706:

§ 250.1706 [Reserved]

■ 42. Remove and reserve § 250.1713:

§ 250.1713 [Reserved]

■ 43. Amend § 250.1716 by revising paragraph (b)(3) to read as follows:

§ 250.1716 To what depth must I remove wellheads and casings?

* * * * *

(b) * * *

(3) The water depth is greater than 1,000 feet.

■ 44. Amend § 250.1722 by revising paragraph (d) introductory text to read as follows:

§ 250.1722 If I install a subsea protective device, what requirements must I meet?

* * * * *

(d) Within 30 days after you complete the trawling test described in paragraph (c) of this section, submit a report to the appropriate District Manager using form BSEE–0125, End of Operations Report (EOR) that includes the following:

* * * * *

[FR Doc. 2018–09305 Filed 5–10–18; 8:45 am]

BILLING CODE 4310–VH–C

FEDERAL REGISTER

Vol. 83 Friday,
No. 92 May 11, 2018

Part III

The President

Proclamation 9742—National Charter Schools Week, 2018
Proclamation 9743—National Hurricane Preparedness Week, 2018
Proclamation 9744—Public Service Recognition Week, 2018
Proclamation 9745—Be Best Day, 2018

Federal Register
Vol. 83, No. 92
Friday, May 11, 2018

Presidential Documents

Title 3—

The President

Proclamation 9742 of May 4, 2018

National Charter Schools Week, 2018

By the President of the United States of America

A Proclamation

The first public charter school opened its doors in Saint Paul, Minnesota, 26 years ago. Wanting to offer families more high-quality education options, it was founded to promote accountability and innovation, and to advance academic achievement. Now, 44 States, the District of Columbia, and Puerto Rico have passed laws authorizing the creation of charter schools, which are responsible for educating millions of students nationwide. During National Charter Schools Week, we celebrate the more than 7,000 charter schools across our country, their teachers and administrators, and the students they serve.

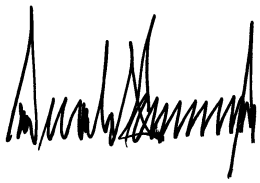
My Administration has prioritized support for charter schools so that more students have access to this valuable academic option. In my fiscal year 2019 budget request, I called on the Congress to increase funding for the Federal Charter Schools Program to $500 million. This program strengthens State and local efforts to create and expand charter schools to help meet the growing demand for this educational option and increase charter schools' access to high-quality facilities.

Each child is blessed with unique talents and learns in different ways. Charter schools enhance educational options for families and empower teachers to explore innovative programs, alternative curricula, and creative approaches to education to ensure that they meet their students' individual needs. Charter schools provide educators the flexibility to equip students with knowledge and skills that give them the opportunity to achieve their academic goals and pursue successful careers.

This week, we acknowledge the critical role charter schools play in providing students with rigorous education that holds them to high standards. A great education is the foundation for a better future for students facing the demands and challenges of the 21st century. As a Nation, we should continue to support and address their dreams in their innovative efforts to help students reach their full potential.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 6 through May 12, 2018, as National Charter Schools Week. I commend our Nation's successful public charter schools, teachers, and administrators, and I call on States and communities to help students and empower parents and families by supporting high-quality charter schools as an important school choice option.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–10275
Filed 5–10–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9743 of May 4, 2018

National Hurricane Preparedness Week, 2018

By the President of the United States of America

A Proclamation

During National Hurricane Preparedness Week, I encourage everyone in hurricane-prone areas to make all necessary preparations for the 2018 hurricane season, which starts this month in the Eastern Pacific and next month in the Atlantic and Central Pacific. Hurricanes threaten the lives of those in their paths and can cause serious damage to homes, businesses, and communities. Having just endured last year one of the most tragic and destructive hurricane seasons in our history, we know all too well the critical need to be prepared to prevent and mitigate hurricane-related harm.

Last year, three hurricanes of Category 4 or higher intensity tragically inflicted immense damage on our communities when they made landfall in the United States and its territories. These three landfalls occurred within less than a month of each other, claiming lives and affecting millions of Americans. Hurricane Harvey's record-breaking rainfall and flooding caused nearly $125 billion of damage to southeastern Texas and Louisiana, making it the second most costly storm on record. It was also the first Category 4 hurricane to strike the United States or its territories since 2004. Not long after, another Category 4 storm, Hurricane Irma slammed into Florida and Puerto Rico. Less than two weeks later, Hurricane Maria, the 10th most intense Atlantic hurricane on record, devastated Puerto Rico and the U.S. Virgin Islands. Federal support to those affected by the 2017 hurricane season was extensive, as the Government delivered the largest ever disaster relief package to States and territories in need.

The incredibly active hurricane season of 2017 showed us the various ways hurricanes can affect lives and property. Storm surges can spread miles inland from the coastline, claiming lives and destroying property. Torrential rainfall, from both hurricanes and storms surrounding them, can cause deadly and hazardous urban and river flooding that reaches far inland. Winds can likewise cause significant property damage over large areas. Other hurricane-related events, like tornadoes, can affect communities well beyond the storm's path. Even if those hurricanes stay hundreds of miles offshore, they can cause harm by generating dangerous waves and rip currents in coastal areas.

Being prepared is the key to minimizing hurricane-related harm. Everyone should take steps now to prepare for this hurricane season. This includes developing plans to stay current about the latest weather developments. Last year, I signed the Weather Research and Forecasting Innovation Act, which strengthens our weather forecasting capabilities. I am proud that the National Oceanic and Atmospheric Administration is well underway in implementing this Act and on the path to producing the best weather forecasting model in the world.

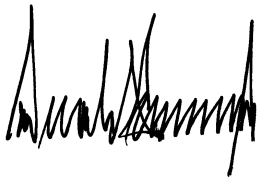
As hurricane season begins, we must remind ourselves that there are no substitutes for having emergency supplies and a well-prepared emergency plan in place. Before this year's hurricane season begins, take the time to sign up for emergency alerts, make plans for shelter and evacuation, gather supplies for your emergency kit, check your insurance coverage and document your property, strengthen your financial preparedness, harden

your home, and develop a plan to keep in touch with your loved ones. Hurricane preparedness information provided by the National Weather Service and the *Ready Campaign* led by the Federal Emergency Management Agency (FEMA) is available online and can help you to develop your plan today so that you can properly safeguard yourself, your family, pets, and property in the event of a hurricane.

My Administration continues to help the areas hit by last year's hurricanes recover and become more resilient against future storms. Yet, ensuring our Nation's resilience requires a commitment from all of us. Communities should come together now to take long-term actions to prepare for and reduce the economic, structural, social, and environmental effects of these storms. Preparedness is everyone's responsibility.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 6 through May 12, 2018, as National Hurricane Preparedness Week. I call upon everyone to take action this week by making use of the online resources provided by the National Weather Service and FEMA to safeguard your families, homes, and businesses from the dangers of hurricanes and severe storms. I also call upon Federal, State, local, tribal, and territorial emergency management officials to help inform our communities about hurricane preparedness and response in order to help prevent storm damage and save lives. Further, I recognize the ongoing National Level Exercise 2018, in which more than 250 organizations are participating to examine the ability of all levels of government, private industry, and nongovernmental organizations to protect against, respond to, and recover from a major mid-Atlantic hurricane.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–10276
Filed 5–10–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9744 of May 4, 2018

Public Service Recognition Week, 2018

By the President of the United States of America

A Proclamation

During Public Service Recognition Week, we acknowledge our Nation's civil servants for their hard work and willingness to serve their fellow citizens. The contributions of these dedicated men and women strengthen our country and make a profound difference in the lives of all Americans.

Members of our Federal, State, and local workforces bring incredible skills, tireless dedication, and selfless service to a broad range of career fields. Our Nation's civil servants include teachers, mail carriers, first responders, transit workers, and law enforcement officers. Our Federal employees underpin nearly all the operations of our Government.

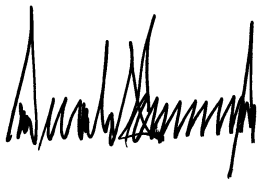
It is critical for Federal employees to provide excellent service and wise stewardship of taxpayer resources. In order to facilitate these goals, in March, I issued the President's Management Agenda, a long-term vision to modernize our Federal Government. Implementation of this comprehensive framework will enable employees to achieve the missions of their agencies in more efficient and secure manners. This Agenda leverages information technology, data, and our Federal workforce to accomplish transformational cross-agency goals. Through the Agenda, my Administration has established a transparent accountability structure, which includes quarterly reviews and public updates, to identify both successes and areas that need further attention.

We are duty-bound to the American people to operate at the highest levels of capability and competency. I am confident that, in keeping with the Agenda, our devoted civil servants will execute their missions so that our Government becomes more efficient and more productive for the benefit of all Americans.

Every day, our Nation's civil servants help make America better, safer, and stronger. This week, we honor their efforts and extend our gratitude for their exceptionalism and steadfast commitment to serving the American people.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 6 through May 12, 2018, as Public Service Recognition Week. I call upon Americans and all Federal, State, tribal, and local government agencies to recognize the dedication of our Nation's public servants and to observe this week through appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–10279
Filed 5–10–18; 11:15 am]
Billing code 3295–F8–P

Presidential Documents

Proclamation 9745 of May 7, 2018

Be Best Day, 2018

By the President of the United States of America

A Proclamation

On Be Best Day, we encourage and promote the well-being of children everywhere. In an increasingly complex and inter-connected world, nothing is more important than raising the next generation of Americans to be healthy, happy, productive, and morally responsible adults. This begins with educating our children about the many critical issues they must confront in our modern world that affect their ability to lead balanced and fulfilled lives.

Our Nation's children deserve certain knowledge that they are safe to grow, learn, and make mistakes. Adults must provide them with the tools they need to make positive contributions in their schools, with their friends, and in their communities.

From every corner of our great country, we hear inspiring stories of Americans rising up to meet the challenges of our time, many of which have an especially pronounced effect on our children. On the inaugural Be Best Day, we highlight two of these challenges: negative social media behavior and the opioid crisis.

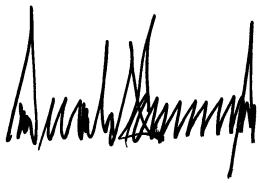
Children who spend large amounts of time on social media are more likely to report mental health issues than those who spend time on non-screen activities. Technology, of course, plays a critical role in the economic and social development of our country. We must, however, recognize that it can also be used to harm. Be Best Day reminds us to emphasize the importance of using technology in positive ways.

Additionally, opioid dependence, addiction, and abuse are at a point of crisis in America today. We all share a moral imperative to confront this crisis, and to help those families and children affected by it. Be Best Day affords an opportunity to raise awareness about the importance of healthy children and pregnancies, including the risks neonatal abstinence syndrome poses to the long-term health of children.

Today, on Be Best Day, let us commit ourselves to the critical task of building a better future for our children. We redouble our efforts to promote well-being and acts of encouragement, kindness, and respect. We highlight the importance of responsible use of social media; and we confront the crisis of opioid misuse that is robbing so many of our children of their potential.

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 7, 2018, as Be Best Day. I encourage Americans to take time to understand the many issues children face on a daily basis—both through personal interactions and through social media. I encourage parents to better understand the harmful effects of drug misuse on our youth, and also to find opportunities to support and celebrate our children. I encourage adults and parents to talk to children, and to get involved in programs that help educate our youth on the unique challenges related to growing up in today's world.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



[FR Doc. 2018–10280
Filed 5–10–18; 11:15 am]
Billing code 3295–F8–P

FEDERAL REGISTER

Vol. 83 Friday,

No. 92 May 11, 2018

Part IV

The President

Notice of May 10, 2018—Continuation of the National Emergency With Respect to the Central African Republic

Federal Register
Vol. 83, No. 92
Friday, May 11, 2018

Presidential Documents

Title 3—

The President

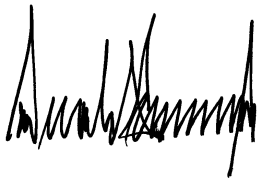
Notice of May 10, 2018

Continuation of the National Emergency With Respect to the Central African Republic

On May 12, 2014, by Executive Order 13667, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the situation in and in relation to the Central African Republic—which has been marked by a breakdown of law and order, intersectarian tension, widespread violence and atrocities, and the pervasive, often forced recruitment and use of child soldiers—threatens the peace, security, or stability of the Central African Republic and neighboring states.

The situation in and in relation to the Central African Republic continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared on May 12, 2014, to deal with that threat must continue in effect beyond May 12, 2018. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared in Executive Order 13667.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
May 10, 2018.

[FR Doc. 2018–10313
Filed 5–10–18; 11:15 am]
Billing code 3295–F8–P

Reader Aids

Federal Register

Vol. 83, No. 92

Friday, May 11, 2018

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, MAY

18913–19156 1
19157–19426 2
19427–19602 3
19603–19904 4
19905–20706 7
20707–21164 8
21165–21706 9
21707–21840 10
21841–22176 11

CFR PARTS AFFECTED DURING MAY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

426 .....19408, 19414

3 CFR

Proclamations:
9704 (Amended by 9739) 20677
9705 (Amended by 9740) 20683
9710 (Amended by 9739) 20677
9711 (Amended by 9740) 20683
9729 19155
9730 19425
9731 19599
9732 19601
9733 19893
9734 19895
9735 19897
9736 19899
9737 19901
9738 19903
9739 20677
9740 20683
9741 20713
9742 22165
9743 22167
9744 22169
9745 22171
Executive Orders:
13198 (Amended by EO 13831) 20715
13280 (Amended by EO 13831) 20715
13342 (Amended by EO 13831) 20715
13397 (Amended by EO 13831) 20715
13559 (Amended by EO 13831) 20715
13199 (Revoked by EO 13831) 20715
13498 (Revoked by EO 13831) 20715
13831 20715
Administrative Orders:
Memorandums:
Memorandum of April 26, 2018 19157
Notices:
May 9, 2018 21839
Presidential Determinations:
No. 2018-05 of April 20, 2018 20707
No. 2018-06 of April 30, 2018 20709
No. 2018-07 of April 30, 2018 20711
Notice of May 10, 2018 22175

6 CFR

Proposed Rules:
5 .....19020, 20738

7 CFR

250 18913
925 21165
984 21841
1006 21843
1773 19905
3419 21846
Proposed Rules:
66 19860
930 21941
945 21188

10 CFR

75 19603
Proposed Rules:
Ch. I 19464

12 CFR

201 21167
1026 19159
Proposed Rules:
1290 19188
1291 19188

13 CFR

120 .....19915, 19921

14 CFR

23 .....19427, 21850
25 .....18934, 19176
39 .....19176, 19615, 19922, 19925, 19928, 20719, 21169, 21855, 21858, 21861, 21867
71 .....19617, 19930, 19931, 19933, 21870, 21871
73 18938
97 .....20725, 20728
Proposed Rules:
21 19021
39 .....19466, 19648, 19983, 20740, 20743, 20745, 20748, 20751, 21191, 21194, 21196, 21199, 21946, 21948, 21951, 21953, 21955, 21962, 21964, 21966
71 .....19469, 19471, 19472, 19474, 19650, 19653, 19655, 19986, 19987, 21968, 21970
Chapter II 21684

17 CFR

Proposed Rules:
210 20753
240 .....21416, 21574
249 21416
275 21203
279 21416

18 CFR

37 21342

19 CFR

201 21140
210 21140

20 CFR

404 21707

Proposed Rules:

404 20646
416 20646

21 CFR

11 20731
101 ....19619, 20731
102 19429
573 19934
600 19936
880 19626
1308 21826

Proposed Rules:

1308 21834

22 CFR

50 21872
51 21872

23 CFR

710 21709

Proposed Rules:

625 21972

26 CFR

54 19431

29 CFR

1910 19936
2590 19431

Proposed Rules:

1910 19989

30 CFR

Proposed Rules:

250 22128
926 20773
938 20774

31 CFR

408 18939

32 CFR

291 19179
2004 19950

33 CFR

100 ....19179, 19628, 19630, 21171
117 ....19630, 21710, 21711
147 20733
165 ....18941, 18943, 18946, 19436, 19963, 19965, 21712, 21714, 21716, 21717, 21876, 21883, 21885, 21886, 21888
326 19180

Proposed Rules:

100 19656
117 19659
151 21214
165 ....19025, 19189

37 CFR

Proposed Rules:

42 21221

38 CFR

3 20735
17 ....21893, 21897

40 CFR

52 ....19438, 19631, 19637, 21174, 21178, 21719, 21907, 21909
62 19184
180 ....19968, 19972

Proposed Rules:

49 20775
51 19026
52 ....19191, 19194, 19476, 19479, 19483, 19495, 19497, 20002, 21226, 21233, 21235, 21238, 21977
55 21254
62 19195
63 19499
81 ....21238, 21977
152 20004
156 20004
174 20004
180 ....20004, 20008

42 CFR

414 21912
431 19440

Proposed Rules:

10 20008
411 21018
412 ....20164, 20972, 21104
413 ....20164, 21018
418 20934
424 ....20164, 21018
495 20164

45 CFR

144 19431
146 19431
147 ....19431, 21925
153 21925
154 21925
155 21925
156 21925
157 21925
158 21925

47 CFR

1 ....19186, 19440, 21722, 21927
2 19976
8 21927
20 21927
54 ....18948, 18951
63 21181
64 ....18951, 21723
73 ....19186, 19459
76 19461
90 19976

Proposed Rules:

Chapter I 21747
0 20011
1 19660
2 ....19660, 20011
15 19660
25 ....19660, 21746
30 19660
54 19196
64 21983
73 21995
76 19033
90 20011
101 19660

48 CFR

Ch. 1 ....19144, 19150
16 19145
19 19146
22 19148
49 19149
52 19148
201 19641
212 19641
215 19645
246 19641
252 19641

Proposed Rules:

Appx. I Ch. 2 19677
219 19677

49 CFR

1040 19647

50 CFR

17 21928
222 21738
224 21182
635 ....21744, 21936
648 ....18965, 18972, 18985, 19461, 19462
660 ....19005, 19981
665 21939

Proposed Rules:

300 21748

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

S. 447/P.L. 115–171
Justice for Uncompensated Survivors Today (JUST) Act of 2017 (May 9, 2018; 132 Stat. 1288)

Last List May 9, 2018

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.