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Title 3—

The President

Proclamation 9746 of May 10, 2018

Military Spouse Day, 2018

By the President of the United States of America

A Proclamation

Since the founding of our Republic, military spouses have served alongside their loved ones and played vital roles in the defense of our country. Their selfless support, volunteer spirit, and significant contributions have left indelible marks on our military and communities. On Military Spouse Day, we pay tribute to these remarkable patriots, past and present, including the incredible women and men who currently serve, in steadfast support of America's Armed Forces, as our Nation's military spouses.

Military Spouse Day is an opportunity to thank the inspirational men and women who are the foundation of our Nation's military families. Their countless sacrifices and tireless devotion to this country, and to those who defend her, are invaluable and irreplaceable. Military spouses shoulder the burdens of a challenging and demanding lifestyle with pride, strength, and determination. They demonstrate uncommon grace and grit, and although most military spouses do not wear a uniform, they honorably serve our Nation—often times without their loved one standing beside them.

We ask so much of our military spouses: frequent moves; heartbreaking separations; parenting alone; incomplete celebrations; and weeks, months, and sometimes years of waiting for a loved one's safe return from harm's way. Time and time again, however, military spouses respond with resilience that defies explanation. Our service members are often praised as national heroes, but their spouses are equally worthy of that distinction.

My Administration is committed to taking care of our Armed Forces and ensuring that our military is equipped to defend our country and protect our way of life. This mission also includes caring for the unique needs of military spouses, whose service to our Nation cannot be overstated.

Too often, military life can interfere with the aspirations and dreams of our military spouses. For example, frequent and often unexpected moves can impair career and academic goals. Even as our economy prospers, military spouses continue to face an unemployment rate far higher than the national average, up to 16 percent in 2017. Further, data from the 2016 American Community Survey indicates that military spouses suffer from underemployment at a greater rate than Americans more broadly, at an estimated 31.4 percent compared to 19.6 percent overall. All of these are added and unnecessary burdens on military families.

We can and will do better, which is why my Administration will continue to focus on enhancing employment opportunities for military spouses. On May 9, I signed an Executive Order to enhance opportunities for military spouses looking for employment in the Federal Government. This action promotes the use of an existing hiring authority for military spouses and seeks to provide significantly greater opportunity for military spouses to be considered for Federal Government positions.

Beyond the Federal Government, I encourage every American business, large and small, to find ways to employ military spouses, and keep them employed as they relocate—sometimes every 2 or 3 years—to new duty stations. More than 360 employers with regional and national footprints have made this

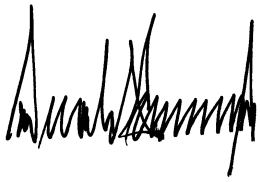
commitment through the Department of Defense's Military Spouse Employment Partnership. In less than 7 years, these patriotic partners have hired more than 112,000 military spouses. We are grateful for these employment opportunities and hope to see many more businesses participate in this important initiative.

In addition, many military spouses encounter unnecessary delays remaining in the workforce following a change in duty station. These spouses are more likely than other workers to face barriers to employment due to the impact of occupational licensing laws, since they frequently move across State lines and are disproportionately employed in occupations that require a license. Existing State laws regarding license portability are insufficient. States and occupational licensing boards can and must do more to improve the license portability to facilitate career continuity and ease financial burdens on our military families.

As we observe Military Spouse Day, we salute generations of military spouses for their leadership, courage, love, patriotism, and unwavering support for the courageous men and women of our Armed Forces. On this day, Melania and I offer our deepest respect and gratitude to every person who has embraced this noble calling in proud service to our Nation as a military spouse.

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 11, 2018, as Military Spouse Day. I call upon the people of the United States to honor military spouses with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth 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.



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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0372; Product Identifier 2018–CE–011–AD; Amendment 39–19279; AD 2018–10–04]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

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

ACTION: Final rule; request for comments

SUMMARY: We are superseding Airworthiness Directive (AD) 2018–03–15 for Pacific Aerospace Limited Model 750XL airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued 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 reports of finding abrasion damage behind the instrument panel caused by ventilation hose chafing. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 4, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 4, 2018.

We must receive comments on this AD by June 29, 2018.

ADDRESSES: You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0372; or in person at Docket Operations, U.S. Department of Transportation, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

For service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: *pacific@aerospace.co.nz;* internet: *www.aerospace.co.nz.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0372.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued AD 2018–03–15, Amendment 39–19188 (83 FR 6110; February 13, 2018) (''AD 2018–03–15''). That AD required actions intended to address an unsafe condition on Pacific Aerospace Limited Model 750XL airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2018–03–15, it has been found that an optional SCAT hose configuration may be found fitted to certain airplanes, and instructions have been clarified on the installation of the self-adhesive mounts and the tape used on the SCAT hose.

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued CAA AD DCA/750XL/22A, dated February 28, 2018 (referred to after this as ''the MCAI''), to correct an unsafe condition for Pacific Aerospace Limited Model 750XL airplanes. The MCAI states:

> This AD is prompted by two reports of finding abrasion damage behind the instrument panel caused by ventilation hose chafing. This [CAA] AD supersedes DCA/750XL/22 to introduce Pacific Aerospace Limited Mandatory Service Bulletin (MSB) PACSB/XL/083 issue 2, dated 16 January 2018. There are no changes to the AD applicability. The PAL MSB revised to include an optional scat hose configuration which may be found fitted to certain aircraft, to clarify that the self-adhesive mounts should be attached directly to the metallic surface, and recommend that 25mm wide 3M Scotch 27 glass cloth tape is used to wrap the scat hose.

You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0372.

Related Service Information Under 1 CFR Part 51

Pacific Aerospace Limited has issued Pacific Aerospace Mandatory Service Bulletin PACSB/XL/083, Issue 2, dated January 16, 2018. The service information describes procedures for inspecting the ventilation SCAT hose behind the instrument panel, wrapping the ventilation hose with anti-abrasion tape, and rerouting the hose. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

FAA's Determination and Requirements of the AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because chafing of the ventilation hose on instrument components and wiring could cause abrasion damage and lead to a short circuit, smoke, and/or inflight fire. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer 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–2018–0372; Directorate Identifier 2018–CE–011–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 22 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $1,870, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 2 work-hours with parts costing $90, for a cost of $260 per product. The extent of abrasion damage could vary from airplane to airplane. We have no way of knowing how many airplanes may have abrasion damage or the extent of that damage to determine the cost of any necessary repair/replacement.

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 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 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) 2018–03–15, Amendment 39–19188 (83 FR 6110; February 13, 2018) and adding the following new AD:

2018–10–04 Pacific Aerospace Limited: Amendment 39–19279; Docket No. FAA–2018–0372; Product Identifier 2018–CE–011–AD.

(a) Effective Date

This AD becomes effective June 4, 2018.

(b) Affected ADs

This AD replaces AD 2018–03–15, Amendment 39–19188 (83 FR 6110; February 13, 2018) (''AD 2018–03–15'').

(c) Applicability

This AD applies to Pacific Aerospace Limited Model 750XL airplanes, all serial numbers up to and including serial number 220, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 31: Instruments.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as reports of finding abrasion damage behind the instrument panel caused by ventilation hose chafing. We are issuing this AD to prevent such abrasion damage, which could cause short circuit of electrical equipment, smoke and/or inflight fire.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (3) of this AD.

(1) Within 15 days after June 4, 2018 (the effective date of this AD), inspect behind the left, center, and right instrument panels for chafing or damage following Part A of the Accomplishment Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/083, Issue 2, dated January 16, 2018.

(2) If any chafing or damage is found during the inspection required in paragraph (f)(1) of this AD, before further flight, contact Pacific Aerospace Limited for FAA-approved repair instructions and incorporate those instructions. Use the contact information found in paragraph (i)(3) of this AD to contact the manufacturer.

(3) If no damage is found during the inspection required in paragraph (f)(1) of this AD, within 45 days after June 4, 2018 (the effective date of this AD), do the actions in Part B of the Accomplishment Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/083, Issue 2, dated January 16, 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, Standards Office, FAA; or the Civil Aviation Authority of New Zealand (CAA).

(h) Related Information

Refer to the MCAI by the CAA, AD DCA/750XL/22A, dated February 28, 2018; and for related information. You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0372.

(i) Material Incorporated by Reference

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

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

(i) Pacific Aerospace Mandatory Service Bulletin PACSB/XL/083, Issue 2, dated January 16, 2018.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0372.

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

Issued in Kansas City, Missouri, on May 4, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–10025 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9523; Product Identifier 2016–NM–134–AD; Amendment 39–19270; AD 2018–09–13]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. This AD was prompted by reports indicating additional cracking in the inspar upper skin at wing buttock line (WBL) 157 and in the skin at two holes common to the rear spar in the same area, and rear spar web cracks were also noted on both wings. Subsequent inspections revealed that the right rear spar upper chord was almost completely severed and the left rear spar upper chord was completely severed. Additional reports identified cracking in the main landing gear (MLG) beam forward support fitting. This AD requires the installation of standard-size fasteners for a certain configuration and inspections for any crack in certain locations of the rear spar. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 19, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 19, 2018.

ADDRESSES: 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; 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–2016–9523.

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–2016–9523; 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 final rule, the regulatory evaluation, any comments received, and other information. The address for Docket Operations (phone: 800–647–5527) is Docket Operations, 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: Payman Soltani, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on January 5, 2017 (82 FR 1254). The NPRM was prompted by reports of cracking in locations outside the inspection area identified in AD 2014–12–13, Amendment 39–17874 (79 FR 39300, July 10, 2014) (''AD 2014–12–13''), in the inspar upper skin at WBL 157 and in the skin at two holes common to the rear spar in the same area, and in the rear spar web on both wings. Subsequent inspections revealed that the right rear spar upper chord was almost completely severed and the left rear spar upper chord was completely severed. Operators also reported cracking in the MLG beam forward support fitting.

We subsequently issued a supplemental notice of proposed rulemaking (SNPRM) which was published in the **Federal Register** on August 11, 2017 (83 FR 37549) (''the first SNPRM''). The first SNPRM proposed to require expanding the inspection area, add applicable related investigative and corrective actions, and to terminate (rather than supersede) the requirements of AD 2014–12–13 after accomplishment of the initial inspections.

We issued a second SNPRM which was published in the **Federal Register** on January 17, 2018 (83 FR 2378) (''the 2018 SNPRM''). The 2018 SNPRM proposed to require the installation of standard-size fasteners for a certain

configuration. We are issuing this AD to address cracking of the forward and aft support fittings for the main landing gear beam, and the rear spar upper chord and rear spar web in the area of rear spar station 224.14, which could grow and result in a fuel leak and possible fire.

Comments

We gave the public the opportunity to participate in developing this final rule. We have considered the comment received. Boeing supported the 2018 SNPRM.

Conclusion

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

- Are consistent with the intent that was proposed in the 2018 SNPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the 2018 SNPRM.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016. This service information describes procedures for repetitive high frequency eddy current (HFEC) open hole inspections for any cracking in the forward support fitting, the aft support fitting, the rear spar upper chord, and the rear spar web at the 12 fastener holes (locations 1–12). This service information also describes procedures for optional HFEC open hole inspections for any cracking in the forward support fitting, the aft support fitting, the rear spar upper chord, and the rear spar web, and HFEC surface inspections for any cracking in the rear spar upper chord and rear spar upper web, as applicable. This service information also describes procedures for related investigative and corrective actions.

We also reviewed Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016. This service information describes procedures for repetitive eddy current inspections of the left and right wing for any cracking in the inspar upper skin and at the repair parts if applicable, and related investigative and corrective actions.

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

Costs of Compliance

We estimate that this AD affects 471 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
HFEC open hole inspections	82 work-hours × $85 per hour = $6,970 per inspection cycle.	$0	$6,970 per inspection cycle ...	$3,282,870 per inspection cycle.
Eddy current inspection	14 work-hours × $85 per hour = $1,190 per inspection cycle.	$0	$1,190 per inspection cycle ...	$560,490 per inspection cycle.

ESTIMATED COSTS FOR OPTIONAL ACTIONS

Action	Labor cost	Parts cost	Cost per product
Inspection	Up to 41 work-hours × $85 per hour = $3,485 per inspection cycle.	$0	Up to $1,641,435 per inspection cycle.

We have received no definitive data that will 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 and associated appliances 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):

2018–09–13 The Boeing Company: Amendment 39–19270; Docket No. FAA–2016–9523; Product Identifier 2016–NM–134–AD.

(a) Effective Date

This AD is effective June 19, 2018.

(b) Affected ADs

This AD affects AD 2014–12–13, Amendment 39–17874 (79 FR 39300, July 10, 2014) (''AD 2014–12–13''); and AD 2015–21–08, Amendment 39–18301 (80 FR 65921, October 28, 2015) (''AD 2015–21–08'').

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of additional cracking in the inspar upper skin at wing buttock line 157 and in the skin at two holes common to the rear spar in the same area; rear spar web cracks were also noted on both wings. Subsequent inspections revealed that the right rear spar upper chord was almost completely severed and the left rear spar upper chord was completely severed. Additional reports identified cracking in the main landing gear (MLG) beam forward support fitting. We are issuing this AD to detect and correct cracking of the forward and aft support fittings for the MLG beam, and the rear spar upper chord and rear spar web in the area of rear spar station 224.14, which could grow and result in a fuel leak and possible fire.

(f) Compliance

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

(g) Required Actions for Group 1 Airplanes (MLG Support Fittings and Rear Spar)

For airplanes identified as Group 1 in Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016: At the applicable time specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016, do applicable inspections and corrective actions using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(h) Required Actions for Groups 2–7 Airplanes (MLG Support Fittings and Rear Spar)

For airplanes identified as Groups 2–7 in Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016: At the applicable time specified in table 2 through table 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016, except as required by paragraph (j)(3) of this AD, do high frequency eddy current (HFEC) open hole inspections for any cracking in the forward support fitting, the aft support fitting, the rear spar upper chord, and the rear spar web at the 12 fastener holes (locations 1–12); or HFEC open hole inspections for any cracking in the forward support fitting, the aft support fitting, the rear spar upper chord, and the rear spar web, and an HFEC surface inspection for any cracking in the rear spar upper chord and rear spar upper web; as applicable; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016, except as provided by paragraph (h)(1) of this AD, and except as required by paragraphs (h)(2) and (j)(1) of this AD. Do all applicable related investigative and corrective actions before further flight. Thereafter, repeat the HFEC inspection at the applicable time specified in table 2 through table 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016.

(1) Options provided in Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016, for accomplishing the inspection are acceptable for the corresponding requirements in the introductory text of paragraph (h) of this AD, provided that the inspections are done at the applicable times in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016.

(2) For Group 7, Configuration 1, airplanes identified in Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016: Install standard-size fasteners in accordance with figures 29 and 30 of Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016. If the existing fastener holes exceed the permitted hole diameter, repair before further flight using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(i) Eddy Current Inspection (Inspar Upper Skin)

For airplanes identified in Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016: At the applicable time specified in table 1 and table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016, except as required by paragraph (j)(2) of this AD, do an eddy current inspection of the left and right wings for any cracking in the inspar upper skin, and at the repair parts if installed, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016, except as required by paragraph (j)(1) of this AD. Do all related investigative and corrective actions before further flight. Thereafter, repeat the eddy current inspection at the applicable time specified in table 1 and table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016.

(j) Exceptions to the Service Information

(1) If any cracking is found during any inspection required by this AD, and Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016; or Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016; specifies to contact Boeing for appropriate action: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (l) of this AD.

(2) Where Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016, specifies a compliance time ''after the Original Issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) Where Boeing Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016, specifies a compliance time ''after the Revision 1 date of this service bulletin, whichever occurs later,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(k) Terminating Action

(1) Accomplishing the initial inspections and applicable related investigative and corrective actions required by paragraphs (g), (h), and (i) of this AD, as applicable, terminates all requirements of AD 2015–21–08.

(2) Accomplishing the initial inspections and applicable related investigative and corrective actions required by paragraphs (g) and (h) of this AD, as applicable, terminates all requirements of AD 2014–12–13.

(l) 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 (m) 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.

(4) AMOCs approved previously for AD 2014–12–13 are approved as AMOCs for the corresponding provisions of paragraphs (g) and (h) of this AD.

(5) Except as required by paragraph (j)(1) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (l)(5)(i) and (l)(5)(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 sub-step is labeled ''RC Exempt,'' then the RC requirement is removed from that step or sub-step. 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

For more information about this AD, contact Payman Soltani, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *payman.soltani@faa.gov.*

(n) 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 Alert Service Bulletin 737–57A1318, Revision 1, dated July 22, 2016.

(ii) Boeing Alert Service Bulletin 737–57A1328, dated July 22, 2016.

(3) For Boeing 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; 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 April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09864 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1245; Product Identifier 2017–NM–099–AD; Amendment 39–19266; AD 2018–09–09]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes Republication

Republication

Editorial Note: Rule document 2018–09280 was originally published on pages 19925 through 19928 in the issue of Monday, May 7, 2018. In that publication, on page 19927, in Table 1 to paragraph (g) of this AD, the last line was omitted from the table. The corrected document is published here in its entirety.

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A318 series airplanes and Model A319 series airplanes; all Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and all Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the holes of the upper cleat to upper stringer attachments at certain areas of the left- and right-hand wings are subject to widespread fatigue damage (WFD). This AD requires modifying the holes of the upper cleat to upper stringer attachments at certain areas of the left- and right-hand wings. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 11, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 11, 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–2017–1245.

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–2017–1245; 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 street 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 by adding an AD that would apply to certain Airbus Model A318 series airplanes and Model A319 series airplanes; all Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and all Model A321–111, –112, –131, –211, –212, –213, –231, and

–232 airplanes. The NPRM published in the **Federal Register** on January 12, 2018 (83 FR 1579) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the holes of the upper cleat to upper stringer attachments at certain areas of the left- and right-hand wings are subject to WFD. The NPRM proposed to require modifying the holes of the upper cleat to upper stringer attachments at certain areas of the left- and right-hand wings. We are issuing this AD to prevent fatigue cracking in the stringer attachment holes of the wings, which could result in reduced structural integrity of the wings.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0117, dated July 7, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A318 series airplanes and Model A319 series airplanes; all Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and all Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The MCAI states:

> Within the scope of work of service life extension for A320 aeroplanes and of widespread fatigue damage evaluations, it has been determined that a structural modification is required to allow the aeroplanes to continue operation up to the limit of validity (LoV).
>
> This condition, if not corrected, may affect the structural integrity of the wing.
>
> To address this potential unsafe condition, Airbus issued [service bulletin] SB A320–57–1208, providing instructions to oversize the holes of the upper cleat to upper stringer attachments at Rib 2 to Rib 7 (inclusive).
>
> For the reason described above, this [EASA] AD requires modification of the affected holes.

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–2017–1245.

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 agreed with the intent of the NPRM.

Request To Clarify Applicability

Allegiant Air asked that we clarify the manufacturer serial numbers (MSNs) identified in the applicability section of the proposed AD. Allegiant Air stated that the effectivity specified in Airbus Service Bulletin A320–57–1208, dated November 21, 2016, identifies airplanes up to and including MSN 7493, and asked about airplanes having MSNs higher than 7493. Allegiant Air noted that it has 11 Model A320 airplanes with MSNs outside those listed in Airbus Service Bulletin A320–57–1208, dated November 21, 2016. Allegiant Air added that it understands the AD takes precedence over the service information, but there are several configurations listed therein. Allegiant Air also added that since the MSNs in question are not listed in the effectivity of the service information, an operator with an MSN outside the effectivity will not know which modification kit to order.

We agree to clarify. The effectivity in Airbus Service Bulletin A320–57–1208, dated November 21, 2016, does not include all MSNs for Model A320 airplanes, and the applicability specified in paragraph (c) of this AD includes all MSNs for Model A320 airplanes, except for airplanes having certain modifications. We acknowledge that the referenced service information may not be adequate for certain airplane configurations. Therefore, we have revised paragraph (g) of this AD to provide an option for doing the modification, including identification of the appropriate modification kit, using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA Design Organization Approval (DOA).

In addition, Airbus has informed us that Revision 1 of the referenced service information will expand the effectivity to include MSNs up to 8555. Airbus has also informed us that, upon request, it will issue a technical adaptation as an interim method of compliance until a revised service bulletin is issued.

Conclusion

We reviewed the relevant data, considered 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

Airbus has issued Airbus Service Bulletin A320–57–1208, dated November 21, 2016. This service information describes procedures for modifying the stringer attachments at rib 2 through rib 7 of the left- and right-hand wings. The modification includes oversizing the holes, doing an eddy current inspection of the affected holes for damage, and 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.

Costs of Compliance

We estimate that this AD affects 1,136 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 (by oversizing and doing eddy current inspection).	125 work-hours × $85 per hour = $10,625	$26,260	$36,885	$41,901,360

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 adding the following new airworthiness directive (AD):

2018–09–09 Airbus: Amendment 39–19266; Docket No. FAA–2017–1245; Product Identifier 2017–NM–099–AD.

(a) Effective Date

This AD is effective June 11, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers, except airplanes specified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model A318 series airplanes on which Airbus Modification (Mod) 39195 has been embodied in production or Airbus Service Bulletin A320–00–1219 has been embodied in service.

(2) Model A319 series airplanes on which Airbus Mod 28238, Mod 28162, and Mod 28342 have been embodied in production.

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation by the design approval holder indicating that the holes of the upper cleat to upper stringer attachments at rib 2 through rib 7 of the left- and right-hand wings are subject to widespread fatigue damage. We are issuing this AD to prevent fatigue cracking in the stringer attachment holes of the wings, which could result in reduced structural integrity of the wings.

(f) Compliance

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

(g) Modification

Before reaching the upper limit, but not before reaching the lower limit, as defined in table 1 to paragraph (g) of this AD, as applicable: Modify the holes of the upper cleat to upper stringer attachments at rib 2 through rib 7 inclusive, on the left- and right-hand wings by oversizing the holes, doing eddy current inspections of the holes for damage, and repairing any damage found before further flight, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–57–1208, dated November 21, 2016, except as required by paragraph (h) of this AD; or 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.

Table 1 to paragraph (g) of this AD – *Window of Embodiment (Total Accumulated Flight Hours (TFH) or Total Accumulated Flight Cycles (TFC), whichever occurs first since airplane first flight)*

Airplanes affected		Lower Limit		Upper Limit	
		TFH	TFC	TFH	TFC
A318-100	All	94,000	47,000	159,200	79,600
A319-100 and A320-200	Pre-mod 160001 and Pre-Airbus Service Bulletin A320-57-1193	94,000	47,000	159,200	79,600
A319-100 and A320-200	Post-mod 160001 or Post-Airbus Service Bulletin A320-57-1193	52,260	26,130	101,610	50,805
A321-100 and A321-200	Pre-mod 160021	101,200	50,600	148,300	74,100
A321-200	Post-mod 160021	44,796	22,398	112,808	56,404

(h) Service Information Exception

Where Airbus Service Bulletin A320–57–1208, dated November 21, 2016, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (i)(2) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0117, dated July 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–2017–1245.

(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.

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–57–1208, dated November 21, 2016.

(ii) Reserved.

(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 20, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. R1–2018–09280 Filed 5–14–18; 8:45 am]

BILLING CODE 1301–00–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0373; Product Identifier 2018–CE–009–AD; Amendment 39–19278; AD 2018–10–03]

RIN 2120–AA64

Airworthiness Directives; Pacific Aerospace Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Pacific Aerospace Limited Model 750XL airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as abrasion damage to the wing leading edge that could result in a fuel leak. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective June 4, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of June 4, 2018.

We must receive comments on this AD by June 29, 2018.

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

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

For service information identified in this AD, contact Pacific Aerospace Limited, Airport Road, Hamilton, Private Bag 3027, Hamilton 3240, New Zealand; phone: +64 7843 6144; fax: +64 843 6134; email: *pacific@aerospace.co.nz;* internet: *www.aerospace.co.nz.* You may view this referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0373.

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–2018–0373; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for Docket Operations (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

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

SUPPLEMENTARY INFORMATION:

Discussion

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/750XL/25A, 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:

> Mandatory Service Bulletin PACSB/XL091 issue 3, dated 15 March 2018 revised to include additional repair information, and [CAA] DCA/750XL/25A updated to introduce the revised SB. The MSB is issued to prevent abrasion damage to the wing leading edge. Chafing by the ventilation duct could result in a fuel leak.

The MCAI requires inspection of the wing leading edge for chafing with corrective action as necessary. The MCAI also requires the application of an anti-abrasion patch.You may examine the MCAI on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0373.

Related Service Information Under 1 CFR Part 51

Pacific Aerospace Limited has issued Mandatory Service Bulletin PACSB/XL/091, Issue 3, dated March 15, 2018. The service information describes procedures for inspecting the wing leading edge skin on both sides for chafing damage, correcting any damage found, and applying an anti-abrasion patch. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of the AD.

FAA's Determination and Requirements of the AD

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

FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because abrasion damage of the wing leading edge skin could lead to a fuel leak. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer 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–2018–0373; Product Identifier 2018–CE–009–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD because of those comments.

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

Costs of Compliance

We estimate that this AD will affect 12 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $80 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $4,020, or $335 per product.

In addition, we estimate that any necessary follow-on actions would take about 8 work-hours and require parts costing $210, for a cost of $890 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 AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–10–03 Pacific Aerospace Limited: Amendment 39–19278; Docket No. FAA–2018–0373; Product Identifier 2018–CE–009–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective June 4, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pacific Aerospace Limited Models 750XL airplanes, all serial numbers up to and including 135, except serial number 113; certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as abrasion damage to the wing leading edge that could result in a fuel leak. We are issuing this AD to address the unsafe condition on these products.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (3) of this AD.

(1) Within 30 days after June 4, 2018 (the effective date of this AD), inspect the leading edge skin of both wings at the wing root following the Inspection Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/091, Issue 3, dated March 15, 2018.

(2) If any signs of chafing are found during the inspection required in paragraph (f)(1) of this AD, before further flight, repair following Part A—Accomplishment Instructions and Part B—Accomplishment Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/091, Issue 3, dated March 15, 2018.

(3) If no signs of chafing are found during the inspection required in paragraph (f)(1) of this AD, before further flight, apply the anti-abrasion patch following Part B—Accomplishment Instructions in Pacific Aerospace Mandatory Service Bulletin PACSB/XL/091, Issue 3, dated March 15, 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 by the CAA AD DCA/750XL/25A, 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–2018–0373.

(i) Material Incorporated by Reference

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

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

(i) Pacific Aerospace Mandatory Service Bulletin PACSB/XL/091, Issue 3, dated March 15, 2018.

(ii) Reserved.

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

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2018–0373.

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

Issued in Kansas City, Missouri, on May 4, 2018.

Melvin J. Johnson,

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

[FR Doc. 2018–10023 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0362; Product Identifier 2018–NM–020–AD; Amendment 39–19269; AD 2018–09–12]

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 certain The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes. This AD requires replacing certain low-pressure oxygen flex-hoses with new non-conductive low-pressure oxygen flex-hoses in the gaseous passenger oxygen system in airplanes equipped with therapeutic oxygen. This AD also requires a general visual inspection of the low-pressure passenger oxygen system to ensure there is minimum clearance of the oxygen system components from adjacent structure and systems. This AD was prompted by reports of low-pressure flex-hoses of the flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 30, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 30, 2018.

We must receive comments on this AD by June 29, 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–2018–0362.

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–2018–0362; 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 final rule, 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: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

This AD was prompted by reports of low-pressure oxygen flex-hoses in the continuously pressurized flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit. Conductive oxygen hoses in the flight deck were addressed previously in AD 2010–16–05, Amendment 39–16382 (75 FR 47208, August 5, 2010) (''AD 2010–16–05'').

The gaseous passenger oxygen system equipped with therapeutic oxygen is not continuously pressurized and must be activated by the flightcrew. Exposure to electrical faults, such as unintended short circuits, can result in localized electrical heating of the low-pressure oxygen flex-hoses. This condition, if not corrected, could result in electrical current passing through the low-pressure oxygen flex-hoses, which can cause flex-hoses to melt or burn, and a consequent oxygen-fed fire in the passenger cabin.

Other Relevant Rulemaking

We issued AD 2010–16–05 for certain The Boeing Company Model 747 airplanes. AD 2010–16–05 was prompted by reports of low-pressure flex-hoses of the flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit in the audio select panel. AD 2010–16–05 requires inspecting to verify the part number of the low-pressure flex-hoses of the flightcrew oxygen system installed under the oxygen mask stowage boxes in the flight deck, and replacing the flex-hose with a new non-conductive low-pressure flex-hose if necessary. We issued AD 2010–16–05 to prevent inadvertent electrical current, which can cause the low-pressure flex-hoses of the flightcrew oxygen system to melt or burn, causing oxygen system leakage and smoke or fire.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017. The service information describes procedures for replacing certain low-pressure oxygen flex-hose assemblies with non-conductive flex-hose assemblies at multiple locations and a general visual inspection to ensure the oxygen system components have minimum clearance from adjacent structure and systems. 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 accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, described previously, except as discussed under ''Differences Between this AD and the Service Information,'' and except for any differences identified as exceptions in the regulatory text of this 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–2018–0362.

Differences Between This AD and the Service Information

Where the Condition column of Table 3 in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, specifies ''all airplanes,'' for this AD, the Condition column of Table 3 is ''airplanes on which one or more hose assemblies were replaced or disconnected.'' As specified in step 3.B.12 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, the oxygen system low-pressure leak test and applicable corrective actions are only accomplished if one or more hose assemblies were replaced or disconnected.

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–2018–0362 and Product Identifier 2018–NM–020–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, we provide the following cost estimates to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Inspection and Replacement	Up to 22 work-hours × $85 per hour = $1,870.	Up to $4,535	Up to $6,405.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2018–09–12 The Boeing Company: Amendment 39–19269; Docket No. FAA–2018–0362; Product Identifier 2018–NM–020–AD.

(a) Effective Date

This AD is effective May 30, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–200B, 747–300, and 747–400 series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Unsafe Condition

This AD was prompted by reports of low-pressure flex-hoses of the flightcrew oxygen system that burned through due to inadvertent electrical current from a short circuit. We are issuing this AD to prevent electrical current from passing through the low-pressure oxygen flex-hoses in the gaseous passenger oxygen system, which can cause the flex-hoses to melt or burn, and a consequent oxygen-fed fire in the passenger cabin.

(f) Compliance

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

(g) Required Actions

Except as required by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017.

(h) Exception to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, uses the phrase ''the original issue date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, specifies contacting Boeing, and specifies that action as RC: This AD requires repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(3) Where the Condition column of Table 3 in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, specifies ''all airplanes,'' for this AD, the Condition column of Table 3 is ''airplanes on which one or more hose assemblies were replaced or disconnected.''

(i) Parts Installation Prohibition

As of the effective date of this AD, no person may install, on any airplane, the hose assembly part numbers identified as ''Removed hose assembly part numbers'' in Table 3, ''Hose Assembly Replacement,'' of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017, in the locations for hose assembly installation as identified in Figures 1 through 14 of Boeing Special Attention Service Bulletin 747–35–2134, dated November 22, 2017.

(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) 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)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(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.

(k) Related Information

For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: *susan.l.monroe@faa.gov.*

(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 Special Attention Service Bulletin 747–35–2134, dated November 22, 2017.

(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 April 27, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–09865 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0071; Product Identifier 2017–NM–063–AD; Amendment 39–19280; AD 2018–10–05]

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) 2016–23–01, which applied to all Airbus Model A310 series airplanes. AD 2016–23–01 required repetitive detailed inspections for cracking around the fastener holes in certain areas of the wing top skin panels, supplemental repetitive ultrasonic inspections for cracking around the fastener holes in certain other areas of the wing top skin panels, and repair if necessary. This AD adds an inspection and modification of the fastener holes of the wing top skin panels at a certain area. This AD also includes terminating action for certain inspections. This AD was prompted by an evaluation by the design approval holder (DAH) which indicates that the wing top skin panel fastener holes at a certain area are also 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 19, 2018.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 19, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of December 15, 2016 (81 FR 78899, November 10, 2016).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com*; internet: *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Standards Branch, 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–2018–0071.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0071; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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: Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3225.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016) (''AD 2016–23–01''). AD 2016–23–01 applied to all Airbus Model A310 series airplanes. The NPRM published in the **Federal Register** on February 8, 2018 (83 FR 5579). The NPRM was prompted by an evaluation done by the DAH which indicates that the wing top skin panel fastener holes at a certain area are subject to WFD. The NPRM would continue to require repetitive detailed inspections for cracking around the fastener holes in certain areas of the wing top skin panels, supplemental repetitive ultrasonic inspections for cracking around the fastener holes in certain other areas of the wing top skin panels, and repair if necessary. The NPRM proposed to add an inspection and modification of the fastener holes of the wing top skin panels at a certain area. The NPRM also includes terminating action for certain inspections. We are issuing this AD to detect and correct fatigue cracking around the fastener holes, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2017–0081, dated May 8, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A310 series airplanes. The MCAI states:

> Following scheduled maintenance, cracks were found around the wing top skin panels fastener holes at Rib 2, between Stringer (STG) 2 and STG14.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> To address this issue, Airbus developed an inspection programme, and published Service Bulletin (SB) A310–57–2096, providing instructions for repetitive detailed inspections (DET) to ensure that any visible cracks in the wing top skin panels 1 and 2 along Rib 2 are detected on time and repaired appropriately. Consequently, EASA issued AD 2008–0211 [which corresponds to FAA AD 2010–04–03, Amendment 39–16196 (75 FR 6852, February 12, 2010) (''AD 2010–04–03)] to require implementation of that inspection programme.
>
> After that [EASA] AD was issued, Airbus improved the inspection programme, revising SB A310–57–2096 accordingly, to include a special detailed inspection (SDI), using an ultrasonic method, to allow earlier crack detection, to subsequently reduce the scope of potential repair action, and to extend the intervals of the repetitive inspections.
>
> Consequently, EASA issued AD 2014–0200 (later revised), retaining the requirements of EASA AD 2008–0211, which was superseded, and required supplementary repetitive SDI [for cracking] of the wing top skin panel 1 and 2 between STG2 and STG10 at Rib 2 [and repair if needed], as described in Airbus SB A310–57–2096 Revision 02.
>
> Since EASA AD 2014–0200R1 was issued, a Widespread Fatigue Damage (WFD) analysis concluded that the inspection programme had to be extended to include the wing top skin panels at Rib 3 attachments, and Airbus issued SB A310–57–2096 Revision 03 accordingly, to provide the necessary instructions. Consequently, EASA issued [EASA] AD 2016–0005 [which corresponds to FAA AD 2016–23–01], retaining the requirements of EASA AD 2014–0200R1, which was superseded, and extending the inspection area to include Rib 3.
>
> In addition to changes to the inspected area, WFD analysis identified structural modification points for certain fastener holes, located at each attachment from STG2 to STG10, at Ribs 2 and 3 on both wings.
>
> Airbus developed modification (mod) 13785 and mod 13786, consisting of an SDI, followed by an oversize of the defined holes on Ribs 2 and 3 on both wings. Airbus issued SB A310–57–2106 and SB A310–57–2107 to provide in-service modification instructions for top skin attachments to Rib 2 and Rib 3 respectively. Accomplishment of these modifications at the specified time will reset the fatigue life of the attachment holes at the top skin attachment to Rib 2 and Rib 3 to the Limit of Validity (LOV). Airbus issued inspection SB A310–57–2096 Revision 04 to account for the inspection requirements post-modification.
>
> For the reasons describe above, this [EASA] AD retains the requirements of EASA AD 2016–0005, which is superseded, requires modifications to the top skin attachment holes at Rib 2 and Rib 3, and defines the inspection requirements for Rib 2 and Rib 3 after modification.

Modification of the fastener holes at top skin ribs 2 and 3 constitutes terminating action for certain repetitive special detailed inspections. You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0071.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received. FedEx supported the NPRM.

Conclusion

We reviewed the available data, including the comment 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

Airbus has issued the following service information.

• Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016. This service information describes procedures for detailed and ultrasonic inspections for cracking around the fastener holes of wing top skin panels 1 and 2, at ribs 2 and 3, on the left- and right-hand sides of the fuselage.

• Airbus Service Bulletin A310–57–2106, dated November 14, 2016. This service information describes procedures for a special detailed inspection and modification of the fastener holes of wing top skin panels 1 and 2, at rib 2.

• Airbus Service Bulletin A310–57–2107, dated November 14, 2016. This service information describes procedures for a special detailed inspection and modification of the fastener holes of wing top skin panels 1 and 2, at rib 3.

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

Costs of Compliance

We estimate that this AD affects 8 airplanes of U.S. registry.

The actions required by AD 2016–23–01, and retained in this AD, take about 8 work-hours per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that are required by AD 2016–23–01 on U.S. operators to be $5,440, or $680 per product.

We also estimate that it takes about 95 work-hours per product to comply with the basic requirements of this AD. Required parts will cost about $10,200 per product. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $146,200, or $18,275 per product.

In addition, we estimate that any necessary modification will take about 40 work-hours and require parts costing $10,000, for a cost of $13,400 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

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

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

This 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) 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016), and adding the following new AD:

2018–10–05 Airbus: Amendment 39–19280; FAA–2018–0071; Product Identifier 2017–NM–063–AD.

(a) Effective Date

This AD is effective June 19, 2018.

(b) Affected ADs

This AD replaces AD 2016–23–01, Amendment 39–18708 (81 FR 78899, November 10, 2016) (''AD 2016–23–01'').

(c) Applicability

This AD applies to all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all manufacturer serial numbers.

(d) Subject

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

(e) Reason

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the wing top skin panel fastener holes at ribs 2 and 3 are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking around the fastener holes, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Repetitive Inspections, With Revised Service Information

This paragraph restates the requirements of paragraph (g) of AD 2016–23–01, with revised service information. Except as required by paragraph (i) of this AD: Within

the initial compliance time and thereafter at the repetitive intervals specified in paragraphs (h)(1) through (h)(3) of this AD, as applicable, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015, or Revision 04, dated December 5, 2016; except as provided by paragraph (j) of this AD. As of the effective date of this AD, use only Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016, to accomplish the required actions.

(1) Accomplish a detailed inspection for cracking around the fastener holes in the wing top skin panels 1 and 2, along ribs 2 and 3, between the front and rear spars on the left- and right-hand sides of the fuselage.

(2) Accomplish an ultrasonic inspection for cracking around the fastener holes in the wing top skin panels 1 and 2, along ribs 2 and 3, between stringer (STG) 2 and STG10 on the left- and right-hand sides of the fuselage.

(h) Retained Compliance Times for Airplanes Not Previously Inspected, With No Changes

This paragraph restates the requirements of paragraph (h) of AD 2016–23–01, with no changes.

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 2,000 flight cycles or 4,100 flight hours, whichever occurs first.

(i) Prior to the accumulation of 18,700 flight cycles or 37,400 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(2) For Model A310–304, –322, –324, and –325 airplanes having an average flight time (AFT) of less than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(2)(i) and (h)(2)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 2,000 flight cycles or 5,600 flight hours, whichever occurs first.

(i) Prior to the accumulation of 17,300 flight cycles or 48,400 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of equal to or more than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD at the later of the times specified in paragraphs (h)(3)(i) and (h)(3)(ii) of this AD. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at intervals not to exceed 1,500 flight cycles or 7,500 flight hours, whichever occurs first.

(i) Prior to the accumulation of 12,800 flight cycles or 64,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after December 15, 2016 (the effective date of AD 2016–23–01).

(i) Retained Compliance Times for Airplanes Previously Inspected, With Revised Service Information

This paragraph restates the requirements of paragraph (i) of AD 2016–23–01, with revised service information. For airplanes previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using Airbus Service Bulletin A310–57–2096, dated May 6, 2008; Airbus Service Bulletin A310–57–2096, Revision 01, dated August 5, 2010; or Airbus Service Bulletin A310–57–2096, Revision 02, dated March 5, 2014: At the applicable compliance times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD, accomplish the actions specified in paragraphs (g)(1) and (g)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015, or Revision 04, dated December 5, 2016. As of the effective date of this AD, use only Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016, to accomplish the required actions. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the repetitive intervals specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 3,500 flight hours or 1,700 flight cycles, whichever occurs first since the most recent inspection.

(2) For Model A310–304, –322, –324, and –325 airplanes having an AFT of less than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 4,600 flight hours or 1,600 flight cycles, whichever occurs first since the most recent inspection.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of equal to or more than 4 hours: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD within 6,100 flight hours or 1,200 flight cycles, whichever occurs first since the most recent inspection.

(j) Retained Compliance Times if No Ultrasonic Equipment Is Available, With Revised Service Information

This paragraph restates the requirements of paragraph (j) of AD 2016–23–01, with revised service information. If no ultrasonic equipment is available for the initial or second inspection required by paragraph (g) or (h) of this AD, accomplish the detailed inspection specified in paragraph (g)(1) of this AD within the applicable compliance times specified in paragraphs (j)(1) and (j)(2) of this AD. After accomplishing the detailed inspection, do the inspections specified in paragraphs (g)(1) and (g)(2) of this AD at the applicable compliance times specified by paragraphs (i)(1), (i)(2), and (i)(3) of this AD. Subsequently, repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the applicable repetitive intervals specified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD.

(1) For airplanes not previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using the service information identified in paragraph (j)(2)(i), (j)(2)(ii), (j)(2)(iii), or (j)(2)(iv) of this AD: Do the actions required by paragraph (g)(1) of this AD within the initial compliance time specified by paragraphs (h)(1), (h)(2), and (h)(3) of this AD, as applicable.

(2) For airplanes previously inspected before December 15, 2016 (the effective date of AD 2016–23–01), using the service information identified in paragraph (j)(2)(i), (j)(2)(ii), (j)(2)(iii), or (j)(2)(iv) of this AD: Do the actions required by paragraph (g)(1) of this AD within the applicable compliance times specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD.

(i) Airbus Service Bulletin A310–57–2096, dated May 6, 2008.

(ii) Airbus Service Bulletin A310–57–2096, Revision 01, dated August 5, 2010.

(iii) Airbus Service Bulletin A310–57–2096, Revision 02, dated March 5, 2014.

(iv) Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015.

(k) Retained Repair of Cracking, With No Changes

This paragraph restates the requirements of paragraph (k) of AD 2016–23–01, with no changes. If any cracking is found during any inspection required by paragraph (g), (h), (i), or (j) of this AD, before further flight, repair the cracking using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature. Accomplishing the repair specified in this paragraph terminates the repetitive inspections required by paragraph (g), (h), (i), or (j) of this AD, as applicable, for the repaired area only.

(l) Retained Definition of AFT, With No Changes

This paragraph restates the requirements of paragraph (l) of AD 2016–23–01, with no changes. For the purposes of this AD, the AFT should be established as specified in paragraphs (l)(1), (l)(2), and (l)(3) of this AD for the determination of the compliance times.

(1) The inspection threshold is defined as the total flight hours accumulated (counted from take-off to touch-down), divided by the total number of flight cycles accumulated at the effective date of this AD.

(2) The initial inspection interval is defined as the total flight hours accumulated divided by the total number of flight cycles accumulated at the time of the initial inspection threshold.

(3) The second inspection interval is defined as the total flight hours accumulated divided by the total number of flight cycles accumulated between the initial and second inspection threshold. For all inspection intervals onwards, the average flight time is the flight hours divided by the flight cycles accumulated between the last two inspections.

(m) New Requirements of This AD: Rib 2 Inspection and Modification

At the compliance time specified in paragraph (n) of this AD, as applicable, accomplish the actions specified in paragraphs (m)(1) and (m)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2106, dated November 14, 2016.

(1) Accomplish a special detailed inspection to determine the diameter of the fastener holes in the wing top skin panels 1 and 2, at rib 2 of both wings.

(2) Modify the fastener holes.

(n) New Compliance Times for Rib 2 Inspection and Modification

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(1)(i) and (n)(1)(ii) of this AD.

(i) Prior to the accumulation of 40,000 flight cycles or 93,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(2) For Model A310–304, –322, –324, and –325 airplanes having an AFT of less than 4 hours: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(2)(i) and (n)(2)(ii) of this AD.

(i) Prior to the accumulation of 40,000 flight cycles or 116,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of 4 hours or more: Do the actions required by paragraphs (m)(1) and (m)(2) of this AD at the later of the times specified in paragraphs (n)(3)(i) and (n)(3)(ii) of this AD.

(i) Prior to the accumulation of 30,000 flight cycles or 150,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(o) New Requirements of This AD: Rib 3 Inspection and Modification

At the compliance time specified in paragraph (p) of this AD, as applicable, accomplish the actions specified in paragraphs (o)(1) and (o)(2) of this AD concurrently and in sequence, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2107, dated November 14, 2016.

(1) Accomplish a special detailed inspection to determine the diameter of the fastener holes in the wing top skin panels 1 and 2, at rib 3 of both wings.

(2) Modify the fastener holes.

(p) New Compliance Times for Rib 3 Inspection and Modification

(1) For Model A310–203, –204, –221, and –222 airplanes: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(1)(i) and (p)(1)(ii) of this AD.

(i) Prior to the accumulation of 46,400 flight cycles or 92,900 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(2) For Model A310–304, –322, –324, and –325 airplanes having an AFT of less than 4 hours: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(2)(i) and (p)(2)(ii) of this AD.

(i) Prior to the accumulation of 45,400 flight cycles or 127,300 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(3) For Model A310–304, –322, –324, and –325 airplanes having an AFT of 4 hours or more: Do the actions required by paragraphs (o)(1) and (o)(2) of this AD at the later of the times specified in paragraphs (p)(3)(i) and (p)(3)(ii) of this AD.

(i) Prior to the accumulation of 33,800 flight cycles or 169,000 flight hours since first flight of the airplane, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(q) New Corrective Actions

If any cracking is found during any inspection required by paragraph (m), (n), (o), or (p) of this AD, before further flight, repair the cracking using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature. Accomplishing the repair specified in this paragraph terminates the repetitive inspections required by paragraph (g), (h), (i), or (j) of this AD, as applicable, for the repaired area only.

(r) New Terminating Actions

(1) Accomplishment of the modification specified in paragraph (m) of this AD constitutes terminating action for the repetitive special detailed inspections required by paragraph (g)(2) of this AD for the modified fastener holes at top skin rib 2 for that airplane. After modification, the unmodified fastener holes at top skin rib 2 between the front and rear spars remain subject to the repetitive inspections required by paragraph (g)(1) of this AD.

(2) Accomplishment of the modification specified in paragraph (o) of this AD constitutes terminating action for the repetitive special detailed inspections required by paragraph (g)(2) of this AD for the modified fastener holes at top skin rib 3 for that airplane. After modification, the unmodified fastener holes at top skin rib 3 between the front and rear spars remain subject to the repetitive inspection required by paragraph (g)(1) of this AD.

(s) Other FAA AD Provisions

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

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

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

(t) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0081, dated May 8, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2018–0071.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3225.

(u) 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 19, 2018.

(i) Airbus Service Bulletin A310–57–2096, Revision 04, dated December 5, 2016.

(ii) Airbus Service Bulletin A310–57–2106, dated November 14, 2016.

(iii) Airbus Service Bulletin A310–57–2107, dated November 14, 2016.

(4) The following service information was approved for IBR on December 15, 2016 (81 FR 78899, November 10, 2016).

(i) Airbus Service Bulletin A310–57–2096, Revision 03, dated June 30, 2015.

(ii) Reserved.

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

(6) 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.

(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 May 7, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10214 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 32

[Docket No.: OJP (BJA) 1722]

RIN 1121–AA85

Public Safety Officers' Benefits Program

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule finalizes two proposed rules in order to update and improve the regulations of the Office of Justice Programs (OJP) implementing the Public Safety Officers' Benefits (PSOB) Program, in order to incorporate several statutory changes enacted in recent years, address some gaps in the regulations, and improve the efficiency of the PSOB Program claims process. After careful consideration and analysis of the public comments on both proposed rules, the final rule incorporates a number of changes as discussed below.

DATES: This rule is effective June 14, 2018, except for amendatory instructions 10 (amending 28 CFR 32.12), 17 (amending 28 CFR 32.22), and 32 (amending 28 CFR 32.53), which are effective June 14, 2020.

FOR FURTHER INFORMATION CONTACT: Hope Janke, Bureau of Justice Assistance; Telephone: (202) 514–6278, or toll-free at (888) 744–6513.

SUPPLEMENTARY INFORMATION: The Public Safety Officers' Benefits (PSOB) Program provides a statutory death benefit to certain survivors of public safety officers who are fatally injured in the line of duty, disability benefits to public safety officers catastrophically injured in the line of duty, and education benefits to certain of the survivors and family members of the foregoing public safety officers. Under the Program, claims are filed with, and adjudicated by, the Office of Justice Programs (OJP) of the U.S. Department of Justice. The regulations for the PSOB Program are codified at 28 CFR part 32.

I. Executive Summary

A. Purpose of the Regulatory Action

OJP published two proposed rules for the PSOB Program, one on July 15, 2016, 81 FR 46019 (''PSOB I''), and the other on August 22, 2016, 81 FR 57348 (''PSOB II''). PSOB I primarily focused on certain changes needed to implement statutory changes made by the Dale Long Act (affecting members of rescue squad and ambulance crews, as well as provisions related to certain heart attack/stroke/vascular rupture cases), and also to align the workings of the PSOB Program with certain provisions under the World Trade Center (WTC) Health Program, as well as with the September 11th Victim Compensation Fund (VCF). PSOB II was to implement recent statutory changes, address some gaps in the regulations, and to improve the efficiency of the PSOB Program claims process.

During the comment periods, OJP received comments on its proposed rules from various parties. After further review of the proposed rules and careful consideration and analysis of all comments on both proposed rules, OJP has made amendments that are incorporated into this final rule. In addition, the final rule includes a technical change necessitated by the newly-enacted provisions of the Public Safety Officers' Benefits Improvement Act of 2017, Public Law 115–36, 131 Stat. 841 (June 2, 2017). The final rule also includes (non-substantive) changes to myriad cross-references to statutory provisions, referred to in the regulations, that—effective September 1, 2017—were reclassified by the Law Revision Counsel of the House of Representatives from title 42 of the U.S. Code to title 34 of the U.S. Code.

During the comment period, OJP received comments on its proposed rules from a number of interested parties: Various national police-, fire-, and rescue associations and unions; a foundation supporting 9/11 responders; an organization that provides support and assistance to the survivors of fallen law enforcement officers; a prosecutor and former claims attorney, and two members of Congress. OJP received input from a total of 7 commenters on the first proposed rule, and 8 commenters on the second rule.

After careful consideration and analysis of all comments received, OJP has made amendments that are incorporated into this consolidated final rule. The final rule also contains a few clarifying changes to provisions in the proposed rule where there were some previously unnoticed ambiguities, or where the language was more complex than necessary. A summary overview of the changes made by the final rule follows below, with a more complete discussion (below that) of the provisions of the rule, the public comments received on the proposed rule, the Department's response, and the final changes incorporated into the final rule.

Pursuant to 34 U.S.C. 10287, this final rule is intended (insofar as consistent with law) to be effective and applicable to all claims from and after the effective date hereof, whether pending (in any stage) as of that date or subsequently filed.

B. Summary of the Major Changes in the Final Rule

The final rule makes the following conforming changes required by the Dale Long Public Safety Officers' Benefits Improvement Act of 2012 (Dale Long Act), Public Law 112–239, which, among other things, added (as codified at 34 U.S.C. 10282(9)(D)) as a new category of public safety officer—''a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity, is engaging in rescue activity or in the provision of emergency medical services''. The following changes implement the inclusion of the new category of public safety officer by the following revisions and additions to the PSOB regulations:

- Revise definition of *Employed by a public agency;*
- Revise definition of *Line of duty activity or action* to align with statutory inclusion of members of rescue squads and ambulance crews;
- Revise definition of *Officially recognized or designated public employee member of a squad or crew;*
- Add a definition for *Officially recognized or designated volunteer member of a squad or crew;*
- Revise definition of *Official training program of public agency;*
- Remove definition of *Public employee member of a squad or crew,* and

• Redesignate and revise definition for *Public safety agency.*

The Dale Long Act also amended some provisions in the PSOB Act relating to cases involving heart attacks, strokes, or vascular rupture cases. The following changes in the final rule implement those changes:

• Define *Competent medical evidence, Unrelated,* and *Something other than the mere presence of cardiovascular disease risk factors;* remove certain no-longer-needed definitions.

The Dale Long Act also amended provisions of the PSOB Act affecting the payment offset scheme for the PSOB Program relative to the September 11th VCF Program. The final rule makes the following changes in the regulations to implement these amendments, and also makes changes in order to align the PSOB Program with WTC Health Program and the VCF Program:

• Revise the definition of *Injury* to include *WTC-related health condition;*

• Add definition for *WTC-related health condition* =to enable the agency to use certain provisions of the WTCHP in determining whether a responder suffered an ''injury'' in connection with his response to the September 11, 2001, attacks;

• Add definition for *September 11, 2001, attacks;*

• Add definition for *WTC responder;* and

• Amend the *Payment and repayment* provision (28 CFR 32.6) to specify how the offset of PSOB benefits by September 11th VCF program will be calculated.

The final rule makes the following changes in response to identified ambiguities and gaps in existing regulations, as well as opportunities to simplify and improve the program's administration:

• Amends the *Computation of time; filing* provision (§ 32.2) to make explicit agency authority to prescribe an online claim filing system;

• Amends *Time for filing a claim* provisions (§§ 32.12 and 32.22), and adds a suite of new definitions—*Claim, Claimant, Foundational evidence as to status and injury, Intention-notice filer, Notice of intention to file a claim, Supporting-evidence collection period*—to implement a revised version of the ''completed application'' notion proposed in PSOB II;

• Amends *Authorized commuting* to clarify that return travel from responding to a fire-, rescue-, or police emergency is included;

• Amends *Gross negligence* to allow for ''reasonable excuse/objective justification'' exceptions;

• Amends *Line of duty injury* to make explicit the inclusion of injuries sustained as result of retaliation for line-of-duty actions taken by an officer;

• Makes express the coverage of certain trainees by defining new terms (*Candidate-officer* and *Candidate-officer training*), and makes corresponding amendments to the definitions of *Firefighter, Involvement,* and *Rescue squad or ambulance crew;*

• Amends the definition of *Spouse* to reflect current jurisprudence, including the recent holding of the U.S. Court of Appeals for the Federal Circuit in *Hesson* v. *Department of Justice,* 664 Fed. App'x 932 (2016), a PSOB case;

• Makes express the circumstances under which officers engaging in public safety activity outside of their jurisdictions would be considered to be acting in the line of duty by adding a series of presumptions in the *Evidence* provision at § 32.5;

• Amends the *Evidence* provision at § 32.5 to create a legal presumption that certain legally licensed or -authorized volunteer fire departments satisfy various provisions the definition of *Instrumentality* and a revised version of the substance of the definition of *Volunteer fire department* proposed in PSOB II;

• Amends the *Evidence* provision at § 32.5(b) to include specific reference to the PSOB Act, in order to ensure proper application of the amendment made to the Act by the PSOB Improvement Act of 2017 relating to weight of evidence and factual findings;

• Amends the *Fees for representative services* provision (§ 32.7) to provide for a percentage-fee option; and

• Removes definitions for *Dependent, Eligible dependent,* and *Tax year* to conform to statutory amendments made by the Dale Long Act.

C. Estimated Costs and Benefits

This final rule is considered 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 rule is expect to lead to an increase in transfer payments. In addition, it will result in net cost savings of approximately $24,723 per year to claimants and public safety agencies in substantiating claims. As set out in more detail below, this figure is based on the estimated annual cost savings to the public from changes to the Dale Long Act implementing provisions that will reduce the number of independent medical reviews required; and a variety of marginal efficiencies and burden reduction for claimants created by certain streamlined provisions and definitions.

II. Discussion of the Provisions of the Final Rule and Responses to Public Comments on the Proposed Rules

A. Section 32.2—Computation of time; filing.

This section sets forth the timeframes, means, and deadlines for filing a claim. The proposed rule sets forth some changes relating to specification of what would be considered ''good cause'' for purposes of waiver of filing deadlines. OJP received some comments on the PSOB I proposed rule expressing concern that ''good cause'' did not cover circumstances in which a claimant does not file a claim within time due to a lack of regulation or process such as 9/11 exposure claims, and in these comments OJP was asked to add to the proposed definition of ''good cause'' two provisions to address such circumstances. One commenter suggested that OJP create a three-year filing window for 9/11-health related death or disability claims similar to that provided in VCF regulations that runs from three years of the date of the regulation's publication. Another commenter recommended that ''good cause'' also be extended to cases in which the claimant's death or disability claim was not covered by the PSOB Program at the time of the officer's death or disability or in cases where regulations permitting such a claim were not promulgated in time for a claim to be timely made.

OJP agrees that 9/11 exposure claimants should be provided with additional time to file claims for death and disability benefits. Rather than define ''good cause,'' OJP has decided that particular issues can be best addressed by establishing specific exceptions to the regulations that prescribe the time for filing death and disability claims. Accordingly, the final rule amends those sections. *See* discussion below on §§ 32.12 and 32.22—*Time for filing a claim.*

The final rule also makes minor technical changes for clarity at §§ 32.2(c) and 32.2(g) to make express reference to the Director of BJA's authority to prescribe filing of claims by electronic means (§ 32.2(g)), in anticipation of the rollout of the new online PSOB claim system.

B. Sections 32.3, 32.13, 32.23, and 32.33—Definitions.

The proposed rules presented various technical and substantive changes/additions to the definitions sections of the rule in order to implement certain statutory changes (in particular, the Dale Long Act), and also to align the PSOB program with the WTC Health Program.

The proposed rules also amended some definitions and added others to address gaps and remove ambiguities, and to implement improvements in claims processing. Considering all comments received, and upon further study of the regulatory and statutory scheme, OJP has revised some definitions as in the proposed rules, and declined to adopt others. These changes are discussed by topic below.

1. Definitions To Implement the Dale Long Act Amendments Applicable to Members of a Rescue Squad or Ambulance Crew

The Dale Long Act amended the PSOB Act to include a new category of public safety officer—''a member of a rescue squad or ambulance crew who, as authorized or licensed by law and by the applicable agency or entity, is engaging in rescue activity or in the provision of emergency medical services''. This amendment removed the requirement that an individual member of a rescue squad or ambulance crew be a ''public employee'', and also established the requirement that employee- and volunteer members of public agency and nonprofit entity ambulance squads and rescue crews actually be engaging in rescue activity or providing emergency medical services in order to qualify as public safety officers under the Act.

The proposed rule provided revised definitions for *Line of duty activity or action* and *Officially recognized or designated public employee member of a squad or crew* and *Eligible public safety officer* to implement these changes. The agency did not receive any comments on this aspect of the proposed rule. After further analysis, the agency has determined that proper implementation of the statutory changes requires some additional definitions and slight changes to what was set forth in the proposed rule.

Accordingly, the final rule amends the program regulations in a more efficient way (with the same substantive result proposed to be reached in PSOB II)—*i.e.,* the final rule amends the program regulations by removing or amending the provisions that related to the former statutory requirement that members of a rescue squad or ambulance crew be ''public employees'' and adding provisions that reflect the new statutory requirements that replaced the former ''public employee'' requirement (see definitions of *Employed by a public agency, Line of duty activity or action, Officially recognized or designated employee member of a squad or crew, Officially recognized or designated volunteer member of a squad or crew,* and *Public safety agency*).

2. Definitions To Implement Dale Long Act Amendments Relating to the Heart Attack-, Stroke- or Vascular Rupture Cases

The Dale Long Act amended the statutory presumption in the PSOB Act covering certain fatal heart attacks, strokes, and vascular ruptures (at 34 U.S.C. 10281(k). Specifically, the new language provides that the presumption of coverage is overcome if ''competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.''

PSOB I proposed to add definitions for *Unrelated, Competent medical evidence,* and *Something other than the mere presence of cardiovascular disease risk factor.* One commenter expressed approval that ''PSOB is proposing to amend approved causes of death to include heart attacks, strokes, and vascular ruptures.'' OJP appreciates the support for the proposed rule but notes that the commenter appears to misunderstand the operation of the legal presumption in the statute. The proposed rule would not have amended anything relating to ''cause of death''—but rather would have implemented the statutory changes made to the presumption of a line-of-duty death for certain heart attack/stroke/vascular rupture cases by defining the new terms not defined in the statute itself.

Another commenter supported the proposed rule and stated that it would eliminate unnecessary medical evidence; another stated that the proposed rule would implement the Hometown Heroes Act as Congress intended. One commenter noted that the Dale Long Act did not define the phrase ''something other than the mere presence of cardiovascular disease risk factors'' and stated that the proposed definition did not support the intent of the Dale Long Act of ensuring that the families of officers who died or were permanently and totally disabled in the line of duty were provided benefits, and asked that the proposed definition be removed from the final rule. OJP appreciates these comments but does not agree, that the proposed definition is contrary to the intent of the Dale Long Act, or that it would limit the availability of benefits other than as the statute already has directed. The statutory term is key to determining when the presumption afforded by 34 U.S.C. 10281(k) is rebutted. In itself, the phrase ''something other than'' is inherently ambiguous; to leave it undefined invites uncertainty. Accordingly, by defining the term in the regulation, OJP provides clarity and direction as to the circumstances under which the presumption would be rebutted, and the nature of the additional evidentiary development and medical review of the record that may be required in certain cases. Accordingly, the final rule adopts, with minor, non-substantive change, the language of the proposed rule, which implements the statutory changes by providing definitions of the statutory terms, so that claimants are informed under what circumstances the presumption provided at 34 U.S.C. 10281(k) may be overcome.

3. Provision Relating to the WTC Health Program and September 11th VCF Program

PSOB I proposed to amend the PSOB regulations in an effort to align the PSOB Program with the WTC Health Program and the VCF Program: Defining new terms—*September 11, 2001, terrorist attacks, List of WTC-related health conditions,* and *Physical harm* (and amending the *Evidence* provision of the regulation at 32.4 to include this latter term)—and amending the term *Injury* to include the notion of a health condition that is ''*medically associated* with a WTC-related health condition.''

One commenter stated that although it was generally supportive of the regulatory changes proposed to address the unique circumstances of 9/11 claims, it noted that OJP relied on an outdated version of VCF's definition of ''physical harm'' in 28 CFR 104.2. The commenter noted that the current rule, codified at 104.2(d) as published in the **Federal Register** on June 15, 2016, 81 FR 38936, 38941, added to the previous definition, ''A WTC-Related Physical Health Condition,'' which eliminated the requirements that a WTC-Related Physical Health Condition must have been treated by a medical professional within a reasonable period of time from the date such harm was discovered and be verifiable by contemporaneously created medical records. Another commenter noted the same issue and stated that the proposed rule should reflect the VCF's amended definition. Based on the comments, OJP has determined that proposed incorporation of the term ''physical harm'' as a definition in the PSOB rule is not necessary, as the VCF regulations do not require such harm to establish a WTC-related physical health condition. Accordingly, OJP has omitted the definition from the final rule.

The proposed rule did not include a definition for ''medically associated'' (a term included in the proposed amendment of the definition of *Injury*), as OJP had anticipated that the analysis required for such determinations was better suited for the expertise of the WTC Health Program. Some commenters stated that the rule should include provisions that would enable the PSOB Program independently to identify as an injury those conditions ''medically associated'' with WTC-related health conditions. Other commenters pointed out that the law authorizing the Administrator of the WTC Health Program to certify a health condition as ''WTC-related'' also extends to conditions not on the List of WTC-Related Health Conditions, by virtue of the Administrator's authority to require the WTC Health Program cover conditions that he finds to be ''medically associated with a WTC-related health condition.'' [1] As the WTC Health Program Administrator is authorized to make such certifications, the commenters suggest that the PSOB Program should also adopt this authority.

Although the proposed rule did not include ''medically associated'' conditions within its definition, after careful consideration, OJP recognizes that a condition certified by the Administrator of the WTC Health Program as ''medically associated'' with a WTC-related health condition could be an injury that directly and proximately causes a public safety officer's death or permanent and total disability. Accordingly, the final rule replaces the definition of *List of WTC-related health conditions* with a definition of *WTC-related health condition,* a term that is broader than the one in the proposed rule.

OJP is not inclined, despite encouragement by one commenter, independently to determine when a condition is ''medically associated,'' because OJP has determined that it should rely on the expertise of the WTC Health Program in these matters. As revised in the final rule, the definition of a ''WTC-related health condition'' allows the agency to use certain provisions of the WTCHP in determining whether a responder suffered an ''injury'' in connection with his response to the September 11, 2001, attacks. To further this alignment of the PSOB Program with the WTC Health Program, the final rule also defines the terms *September 11, 2001, attacks* and *WTC responder* (which relates to the definition of *Injury*) to tie them to the WTC Health Program statute and implementing regulations at 42 CFR part 88.

4. Definitions Relating to Trainees, Suppression of Fire, Onsite Hazard Management, and Officers Acting Outside of Jurisdiction

OJP had attempted, in its proposed rule, to expand coverage under the PSOB Program to include trainees (and certain others) as ''public safety officers'' under circumstances in which they have no authority to engage in public safety activity, and also to expand coverage to officers responding outside of their jurisdiction where no law authorized such response. A number of commenters understandably applauded these proposed provisions, strictly on policy grounds, rather than on the basis of anything authorized by the law. Regarding the proposed addition of trainees (and others) as public safety officers and coverage of officers acting outside of their jurisdictions where no law authorized such action, however, one commenter forcefully pointed out that the provision was contrary to the language of the PSOB Act and to the legislative history of the Dale Long Act, and that a provision covering injuries sustained by law enforcement trainees with no authority to enforce the law was at odds with *Hawkins* v. *United States,* 469 F.3d 993 (Fed. Cir. 2006), providing that a law enforcement officer's ''actual responsibilities and obligations'' determine whether an individual is in fact a law enforcement officer.

Upon further reflection, careful review of PSOB rulings by the federal courts, *see, e.g., Howard* v. *United States,* 229 Ct. Cl. 507 (1981); *Budd* v. *United States,* 225 Ct. Cl. 725 (1980); *Tafoya* v. *United States,* 8 Cl. Ct. 256 (1985); *Yanco* v. *United States,* 45 Fed. Cl. 782 (2000); and *Amber-Messick* ex rel. *Kangas* v. *United States,* 483 F.3d 1316 (Fed. Cir. 2007); and close consideration of the lengthy discussion in H.R. Rep. 112–548 (accompanying the Dale Long Act), OJP has determined these proposed expansions of coverage may not lawfully be made by regulation, as such expansions would be *ultra vires* under the PSOB Act. The discussion in the House Report on the Dale Long Act refers specifically to the authority requirement under the PSOB Act:

> [U]nder the PSOBA as currently in effect, police academy trainees are considered ''law enforcement officers'' only after they acquire the legal authority and responsibility to go out and enforce the law by making arrests and detaining real or suspected criminals, because, under the PSOBA and related statutes, one cannot be a ''law enforcement officer'' unless one actually has the legal duty to enforce the criminal law; and the same goes for fire-fighter trainees, who are not considered ''firefighters'' until they actually acquire the legal authority and responsibility to go out and protect the public by fighting fires, because one is not a ''firefighter'' under the PSOBA and related statutes if one is not under the duty to fight fires. Mere authority to engage in training activities has never been enough to make someone a public safety officer, and when the dangers inherent in some academy or other training exercises lead to fatal or catastrophic injury, only those trainees who coincidentally happen already to have that outside legal authority and responsibility are covered under current law.

H. Rep. No. 112–548 (2012).

OJP has concluded that the specific expansions that were proposed to cover trainees and officers acting outside their jurisdictions, however desirable, may be accomplished only through legislation. For this reason, the final rule does not include the specific expansions proposed. Nonetheless, the final rule does modify the current regulations to make express that trainee officers *are* covered, where those trainee-officers *do* have legal authority. To this end, the final rule adds the following new definitions: *Candidate officer* and *Candidate-officer training,* and amends the definitions of *Firefighter, Involvement,* and *Member of a rescue squad or ambulance crew* to include the terms ''candidate-officer'' and ''candidate-officer training''. As a result of these revisions, the final rule makes clear that a trainee public safety officer who possesses requisite authority would be covered as a ''public safety officer'' under the PSOB Act.

Similarly, for an officer acting outside of his jurisdiction, the final rule clarifies the circumstances when such an officer would be covered, through the mechanism of certain evidentiary presumptions. (See discussion below of *Evidence* at § 32.5.)

5. Amendment of Definition of ''Child of a Public Safety Officer''

The Dale Long Act amended the definition of ''child'' under the PSOB Act by tying the term, for the first time, specifically to ''*the time of the public safety officer's fatal or catastrophic injury.*'' 34 U.S.C. 10284(3) (Emphasis added.) Pursuant to this statutory amendment, the final rule makes conforming changes to the regulatory definition of *Child of a public safety officer.*

6. Provisions Relating to Claims Processing

In OJP's current practice, when it receives an application for benefits that lacks the basic required documents

[1] 42 U.S.C. 300mm–22(b)(2)(A)–(B).

needed to render a determination, it assigns it a claim number, processes it as a *claim* from the moment a claim form is received, and thereafter conducts biweekly outreach efforts to obtain from the applicant and the officer's public agency information required to establish eligibility for benefits. Claims lacking the basic required documents are currently treated as part of the backlog, even though those claims are not ready for adjudication.

In an effort to improve the efficiency of claims processing, PSOB II proposed to add a new provision, at § 32.9, setting forth a new notion, called ''*completed application*'' for benefits. Under the proposed rule, the PSOB Office would maintain and publish on the PSOB Program website a list of basic required documents that claimants would be required to file with applications for PSOB Program death, disability, and education benefits—which would be the absolute minimum documentation that the PSOB Program would require before treating an application as a *claim,* and devoting resources to processing it as such.

OJP did not receive specific comments about the proposed § 32.9. As discussed below, however, at *Time for filing a claim* under §§ 32.12 and 32.22, the final rule implements the substance of the proposed mechanism in a somewhat different way, and with largely the same effect. Accordingly, the final rule does not include a new § 32.9, but, instead, provides new definitions for the following terms: *Claim, Claimant, Foundational evidence as to status and injury, Intention-notice filer, Notice of intention to file a claim,* and *Supporting-evidence collection period.* Under the final rule, an individual may elect (instead of filing a claim) to file a ''notice of intention to file''—which essentially stops the clock for a year (called the *Supporting-evidence period*), while the individual and the involved agencies gather *Foundational evidence* (which was what the proposed rule had intended to refer to by a list on the PSOB website.) At any time during this period, an individual may opt to submit a claim. In line with the proposed rule, this mechanism is designed to assist individuals who intend to file claims by affording them time to gather the information necessary for the claim, as well as provide transparency regarding the progress of the process so that they better understand what foundational evidence is required for their claims. In addition, the mechanism set out in the final rule will assist OJP in improving efficiencies in claims review.

7. Provisions Relating to Statutory Limitations on Payment (34 U.S.C. 10282)

PSOB II proposed changes to the existing definitions of *Voluntary intoxication at the time of death or catastrophic injury* and *Gross negligence,* which implement statutory limitations in the PSOB Act found at 34 U.S.C. 10282. The preamble to the proposed rule explained that the aim of these changes was OJP's effort to ''focus its inquiry'' with regard to the issues arising under this provision, and ''to streamline'' and ''to simplify the application of this statutory bar to payment and limit its application.'' The proposed rule also amended the term defined in the existing regulation (*Voluntary intoxication at the time of death or catastrophic injury*) to reflect a statutory amendment that changed the statutory reference to voluntary intoxication at ''the time of the officer's fatal or catastrophic injury.''

Since the proposed rule was published, however, the legal landscape with regard to the limitations provision in the PSOB Act has changed significantly. Enacted on June 2, 2017, the PSOB Improvements Act of 2017 amended 34 U.S.C. 10282 to provide that when determining a PSOB claim, OJP ''shall presume that none of limitations'' in 34 U.S.C. 10282(a) applies, and that it ''shall not determine that a limitation . . . applies, absent clear and convincing evidence.'' Public Law 115–36.

This statutory amendment alters how the agency must apply 34 U.S.C. 10282. OJP has determined that most of the proposed changes to the definition of *Voluntary intoxication at the time of death or catastrophic injury* are not necessary. Consonant with the thrust of the proposed rule, however, and with the positive commentary received in connection with the proposed changes, the final rule does (1) replace the existing definition of *Voluntary intoxication at the time of death or catastrophic injury* with a new definition of *Voluntary intoxication at the time of fatal or catastrophic injury* that largely restates the substance of the existing one, but is framed using much more ''streamlined'' and ''simplified'' language that is tied to analogous changes to the existing regulatory definition of the statutory term *Drugs and other substances;* and (2) amend the definition of *Gross negligence* to allow for reasonable excuse- and objective justification exceptions from the departure from standard of care.

8. Authorized Commuting

A few commenters commented on the proposed amendment of the definition of *authorized commuting* in PSOB II. One commenter supported the clarification in the proposed rule that *return* travel from public safety is a line of duty activity and recommended that OJP revise paragraph (2)(ii) of the definition of authorized commuting in the proposed rule to cover travel in a vehicle not issued by the officer's agency pursuant to an authorization by the agency that the officer use such vehicle for work. Another commenter, while supporting the proposed revision of the rule to cover return travel from public safety activity, recommended that OJP revise paragraph (2) of the proposed rule to cover all travel to and from work as in the line of duty.

OJP declines to expand the definition of ''authorized commuting'' to include all travel to and from work, as this would be inconsistent with the rationale and legal basis for the current rule. The current rule is based on well-established exceptions to the ''coming and going'' rule and covers three categories of work-related travel situations that indicate a connection between the officer's employment and the circumstances of the officer's injury such that the injury can be said to have been sustained in the line of duty.[2] As described in OJP's 2006 rulemaking, these exceptions are: ''(1) the officer is responding to a particular fire, police or rescue emergency; (2) the officer is commuting to or from work in an agency vehicle; or (3) the officer is commuting to or from work in a personal vehicle that [the officer] is required to use for work.''[3]

The final rule amends the definition in a slightly different way from the proposed rule, but with substantially the same result of including as *authorized commuting* travel to and from work in those circumstances where: (1) The officer is responding to a particular fire, police or rescue emergency (or returning from such response); (2) the officer is commuting to or from work in an agency vehicle; or (3) the officer is commuting to or from work in a personal vehicle that the officer is required to use for work.

9. Line of Duty Injury

Two commenters supported the proposed rule's revision of the term ''line of duty injury'' to include those injuries sustained as a result of retaliation for actions taken in the line of duty by an officer. Consistent with

[2] *See Russell* v. *Law Enforcement Assistance Admin.,* 637 F.2d 1255, 1263–64 (9th Cir. 1980).

[3] 71 FR 46028, 46033 (Aug. 10, 2006).

the thrust of PSOB II, the final rule amends the term to include those injuries sustained as a result of retaliation for actions taken in the line of duty by an officer.

10. Instrumentality

With respect to non-profit volunteer fire departments, the proposed rule introduced a new definition of *volunteer fire department* in an attempt to include those volunteer fire departments that would not otherwise meet the definition of *public agency* because the particular arrangements they have with their jurisdictions. One commenter generally supported the proposed definition of a volunteer fire department, but expressed concern about the third condition in the proposed rule, to require that a VFD provide ''fire protection to the public without preference or subscription.'' Noting that some VFDs provide services to all members of the public but are funded through subscriptions, the commenter recommended that the term ''subscription'' be deleted from the rule. A second commenter disagreed with the proposed definition of volunteer fire department, asserting that the proposed regulation would revise the definition to permit VFDs to qualify as instrumentalities ''even when they are not instrumentalities'' and, in so doing, impermissibly ''writes the words out of the law.'' The commenter recommended that OJP should consider amending its own definition of instrumentality ''to better reflect the realities of volunteer fire departments.'' The final rule establishes an evidentiary presumption, in lieu of the definitional change that had been proposed in PSOB II, with substantially the same result and which addresses the concerns raised by the commenters. (See discussion below of § 32.5.)

11. Spouse

The definition is modified to reflect current jurisprudence, including the holding of the U.S. Court of Appeals for the Federal Circuit in a PSOB case decided only last year, *Hesson* v. *Department of Justice,* 664 Fed. App'x 932 (2016). The final rule makes clear that the regulatory definition does not refer to the injured or deceased public safety officer.

12. Proposed Definitional Changes That Are Not Included in Final Rule

PSOB II proposed various other changes to the definitions (not otherwise discussed above), which are not adopted in the final rule:

• *Injury*—PSOB II proposed to amend the definition of *Injury* to make certain changes, including some changes relating to stress and strain (including mental stress and strain) and some changes that would have added a series of examples of types of injuries. After considering comments that criticized the proposed amendments on the grounds that they may be misleading and could be interpreted as not including other, similar injuries, and after reflecting further on certain relevant judicial holdings in several PSOB cases,[4] OJP declines, in this final rule, to make the amendments to this definition that were proposed. Unrelated to this, however, OJP does amend the definition of *Injury* with regard to WTC-related health conditions, discussed above in B.3.

• *PSOB Counsel*—PSOB II proposed to add a new section 32.10 (*PSOB Counsel*) that, among other things, would have severely limited the internal, administrative review of factual findings in PSOB claims. Some favorable comments were received (mostly on grounds of preventing unnecessary delay by counsel). Notwithstanding the opinion reflected in these comments, in this connection, OJP notes that the Office of the Inspector General's ''Audit of the Office of Justice Programs' Processing of Public Safety Officers' Benefit Programs Claims'' (Audit Division Report No. 15–21: July, 2015) determined that the chronic delays in processing of PSOB claims had various causes, none of which was attributable to actions taken by the OJP Office of the General Counsel, or the PSOB Legal Counsel. Another commenter (currently a prosecutor—and thus a public safety officer under the PSOB Act—and formerly a claims attorney) expressed strenuous opposition to the proposal, citing both a very-detailed and sharply-critical, recent determination by the Department of Justice's Inspector General (Oversight and Review Division Report #16–03 (May 3016)) ''that the Director of the Bureau [of Justice Assistance], in a PSOB Act case, made factual findings that were not supported by any evidence in the record and actually paid the claim against the law'' and the House Judiciary Committee Report that accompanied the Dale Long Act (H.R. Rep. No. 112–548). The House Report does include discussion that runs counter to the thrust of the proposal:

> When it approves claims for the benefits payable under the PSOBA and related statutes, the Bureau of Justice Assistance of the Justice Department's Office of Justice Programs has a legal duty to do so judiciously. The Bureau has the concurrent duty to be both the impartial administrator of the PSOBA according to the law and the impartial guardian of the public treasury with respect to it. Failure to administer the PSOBA program in keeping with these two principles could jeopardize the program's continued existence. It is just as problematic for the program if the Department of Justice pays a PSOBA claim when payment is not unequivocally warranted by the PSOBA program statutes and implementing regulations, or is not supported by the evidence, as it is for the Department to deny payment when payment is clearly required.
>
> Under 31 U.S.C. 3528, every Department official who determines PSOBA claims and/or certifies payments is personally ''responsible for . . . repaying a payment [that is] illegal, improper, or incorrect because of an inaccurate or misleading certificate; [that is] prohibited by law; or . . . that does not represent a legal obligation under the appropriation . . . involved'' unless the determination ''was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information.'' Under 31 U.S.C. 3528, every Department official who determines PSOBA claims and/or certifies payments is personally ''responsible for . . . repaying a payment [that is] illegal, improper, or incorrect because of an inaccurate or misleading certificate; [that is] prohibited by law; or . . . that does not represent a legal obligation under the appropriation . . . involved'' unless the determination ''was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information.''
>
> Moreover, under 31 U.S.C. 1301(a), a payment pursuant to a legally unwarranted PSOBA determination would appear to be a

[4] *Juneau* v. *Dep't of Justice,* 583 F.3d 777 (Fed. Cir. 2009) (''conditions caused by 'stress or strain' '' not covered under PSOB); *Yanco* v. *United States,* 258 F.3d 1356 (Fed. Cir. 2001) (''. . . Congress's intent in enacting the Benefits Act was to provide a death benefit for the survivor or survivors of a law enforcement officer who dies as the result of what one would understand to be some kind of a physical assault or trauma to the body. . . . In short, the legislative history points away from an intent on the part of Congress to have the statutory term 'personal injury' include mental strain.''), *aff'g* 45 Fed. Cl. 782 (2000); *Greeley* ex rel. *Greeley* v. *United States,* 50 F.3d 1009 (Fed. Cir. 1995); *Russell* v. *United States,* 231 Ct. Cl. 1022; *Smykowski* v. *United States,* 647 F.2d 1103 (Ct. Cl. 1981) (''exclu[sion of] stress [and] strain . . . from the coverage of the Act [is] amply justified by the statutory language, legislative history, and medical statistics.''); *Morrow* v. *United States,* 647 F.2d 1099 (Ct. Cl. 1981); *Curtis* v. *Dep't of Justice,* 342 Fed. App'x 610 (Fed. Cir. 2009) (''the PSOB Act does not provide compensation for'' such conditions as ''mental strains such as PTSD and depression''); *Canfield* v. *United States,* No. 339–79 (Fed. Cir. Dec. 29, 1982) (non-coverage of strain ''is well within the purposes and intent of the statute''); *Porter* v. *United States,* 64 Fed. Cl. 143 (2005), *aff'd mem.,* 176 Fed. App'x 111 (Fed. Cir. 2006); *Durco* v. *United States,* 14 Cl. Ct. 424 (1988); *North* v. *United States,* 555 F. Supp. 382 (Cl. Ct. 1982); *Cook* v. *United States,* No. 05–1050C (Fed. Cl. Jun. 15, 2006); *Davison* v. *United States,* No. 99–361C (Fed. Cl. Apr. 19, 2002); *Askew* v. *United States,* No. 542–83C (Cl. Ct. Aug. 27, 1984); *see also Harrison* v. *Dep't of Justice,* No. 14–8006 (Fed. Cir. Oct. 16, 2015).

violation of 31 U.S.C. 1341(a)(1)(A), the Anti-Deficiency Act, which is a felony statute in addition to carrying civil and administrative penalties, 31 U.S.C. 1350, 1349(a).

* * * * *

Every PSOBA case is a legal claim against the Treasury, and the [PSOB] regulations and consistent administrative precedents have helped to ensure that the Federal Government, which is in the midst of its greatest debt crisis since the Founding, decides these claims strictly in accordance with the PSOBA and the underlying law governing legal gratuities, in a generally consistent and orderly manner over time, and based on real, objective, and legally sufficient evidence that objectively meets the standards of proof set forth in the law, rather than speculation, fancied legislative intent, uncorroborated assertions, biased evidence, a slanted record, incomplete information, or sympathy, however understandable or deeply felt.

H.R. Rep. No. 112–548 (2012). Given all the foregoing, OJP declines, in this final rule, to add the proposed § 32.10.

• *Miscellaneous proposed changes*—PSOB II proposed to amend the PSOB regulatory definitions of *Beneficiary of life insurance policy of public safety officer, Engagement in a situation, Gainful work, Medical certainty, Non-routine strenuous physical activity, Non-routine stressful physical activity, Permanently disabled,* and *Totally disabled.* After reflecting further on the text of the PSOB Act itself, and on the discussion about the Department's responsibilities in adjudicating PSOB claims, quoted immediately above, from the House Judiciary Committee Report that accompanied the Dale Long Act (H.R. Rep. No. 112–548), OJP declines, in this final rule, to make proposed amendments to these definitions.

C. Section 32.4—Terms; construction; severability.

The final rule makes a change to this section to make it parallel to a provision of the PSOB Act (at 34 U.S.C. 10285(d)), so that the same rule regarding the operation of the legal doctrine of incorporation applies both in the PSOB Act and in the PSOB regulations.

D. Section 32. 5—Evidence.

As discussed in Section B.4 above, the PSOB II rule proposed, *ultra vires,* to expand coverage under the PSOB Program to certain law enforcement officers and firefighters who respond to public safety events outside of their respective jurisdictions even where no law authorized such response.

After reconsidering the regulatory and statutory schemes, OJP is adopting amendments to § 32.5 in this final rule, to establish certain evidentiary presumptions that will accomplish as much of the substance of the rule proposed as may be accomplished without statutory change. The new paragraphs (j), (k) and (*l*) in § 32.5 operate as a suite of presumptions designed to cover public safety activity performed by a law enforcement officer or firefighter as *Line of duty activity or action* under certain circumstances.

• Section 32.5(j) provides that public safety activity performed by a law enforcement officer or firefighter is presumed to be activity or action that he is obligated or authorized to perform under the auspices of the public agency he serves if—(1) the public safety activity is not forbidden (by law, rule, regulation, condition of employment, etc.); and (2) the officer performs the public safety activity either (a) within his jurisdiction (*i.e.,* within the jurisdiction where he normally is authorized to act in the line of his duty); or (b) within a jurisdiction (not his own) that provides authority for law enforcement officers or firefighters from outside the jurisdiction to perform the public safety activity he performed.

• Section 32.5(k) establishes that the requirements of § 32.5(j) generally will be presumed to be satisfied if full line-of-duty death or disability benefits have been paid in the ordinary course.

• Section 32.5(*l*) provides that if the presumption established by § 32.5(j) arises under circumstances where the public safety activity is performed outside the jurisdiction where the law enforcement officer or the firefighter normally is authorized to act in the line of his duty, then the law enforcement officer or the firefighter shall be deemed to serving that jurisdiction ''in an official capacity'' when he performed the public safety activity (which an element required under the PSOB Act's definition of ''public safety officer'' at 34 U.S.C. 10284(9)). To be eligible as a ''public safety officer'' under the Act, a firefighter must be serving ''a public agency in an official capacity.'' 34 U.S.C. 10284(9)(A); the statutory definition of ''public agency'' includes an ''instrumentality'' of a government.

In PSOB II, OJP proposed a new definition of *Volunteer fire department* to address the status of volunteer fire departments as ''public agencies'' under the PSOB Act. (See discussion under B.10. above.) After further analysis and study, and following somewhat upon the suggestion of one commenter on the proposed rule (who recommended that the proposed change be accomplished—if at all—through amendment of the definition of *Instrumentality*), OJP has determined that a better approach is to create a legal presumption that certain legally licensed or -authorized volunteer fire departments satisfy various provisions of the definition of *Instrumentality.*

PSOB II proposed to make certain amendments to § 32.5, including amendments relating to the presumption at 34 U.S.C. 10281(k) (affecting heart attack/stroke/vascular rupture cases) (§ 32.5(i), to general evidentiary rules (§§ 32.5(b) and (c); 32.5(k)), and to WTC-related health conditions. Although these proposals garnered some comments favoring the policy, the proposals also were the object of very forceful negative commentary (which included citation to H.R. Rep. 112–548 (accompanying the Dale Long Act))—almost entirely of a legal nature—opining that the several proposals variously would ''write[ ] the very meaning of [certain language] out of the PSOB statute,'' would ''swallow'' exceptions established in the PSOB Act, appeared to involve ''overreach by DOJ to get around statutory language in order to pay claims,'' and would produce ''case after case in litigation.''

After further reflection on the comments received, and after close consideration of the stern admonition in H.R. Rep. 112–548 to the effect that the PSOB Act's ''requirements [are] firmly established in the law and therefore [are] to be given full effect, rather than minimized, ignored, or interpreted away, judicially or administratively,'' H. Rep. No. 112–548 (2012), OJP agrees largely with the negative commentary it received. Accordingly—with one partial exception involving WTC-related health conditions—the final rule does not include the proposed changes to § 32.5. In the final rule, the substance of the change proposed to be made to § 32.5 involving WTC-related health conditions is being implemented, instead, through a direct amendment to the definition of *Injury* under § 32.3.

E. Section 32.6—Payment and repayment

OJP proposed to amend this provision to specify how the PSOB Program will calculate the offset of PSOB death or disability benefits based on the actual net amount of compensation paid to or on behalf of a public safety officer under the September 11th VCF program after all VCF-mandated offsets have been subtracted. No comments were received on the proposal, which is included in the final rule without substantive change.

F. Section 32.7—Fees for representative services

Various changes were proposed to the fee provisions in the current regulations to establish the maximum fees that may

be charged for services performed in connection with a claim, to eliminate restrictions on types of fee arrangements, and to establish fee amounts that are presumptively reasonable in claims determined at the PSOB Office level, at the Hearing Officer level, or at the BJA Director level. The agency did not receive comments on the proposed rule.

The final rule provides for a percentage-fee arrangement as an option that may be used in appropriate circumstances to determine attorneys' fees. That is, claimants may choose the new percentage-fee approach in lieu of the traditional fee petition process (entailing submission of itemized specifics of fees) that is in place under the current rule. Petitions for authorization to receive fees in amounts greater than those specified in in the percentage-fee provision (or under circumstances not covered by that provision) otherwise will be continue to be considered as they are at present under this section of the regulations.

G. Sections 32.12 and 32.22—Time for filing a claim.

In response to the comments on the proposed rule's changes to § 32.2 *Computation of time* (see discussion at II.A. above), the final rule revises the provisions prescribing when claims for PSOB Program death and disability must be filed: For ordinary claims, claimants must file a claim before the later of three years from the date of the officer's death or injury, or one year from the date of a final public agency decision of eligibility to receive or denial of death (or disability) benefits based on the officer's service. For claims based on an injury resulting from the September 11, 2001, attacks, claimants must file such claims before the latter of two years from the effective date of this final rule, two years from the date the WTC-related health condition upon which the claim is based is added to the List of WTC-Related Health Conditions, or two years from the date such condition is certified by the Administrator of the WTC Health Program as medically associated with a WTC-related health condition.

Much of the proposed rule, and of the public comments, concerned circumstances under which OJP may consider a claim abandoned, and what to do when a claim cannot be properly processed because evidence is lacking (at times through no fault of the claimant), and the mechanics of a contemplated ''complete applications'' scheme. Consistent with the thrust of the proposed rule (but not its precise terminology and mechanics), the final rule provides an optional pre-claim evidence collection period mechanism that stops the filing-deadline clock so that individuals are given time to gather the basic foundational evidence without the looming prospect of a claim's being deemed abandoned. Individuals will have the option of filing a ''notice of intent to file'', rather than filing a claim directly, in order to afford them time to gather the ''foundational evidence'' needed to establish a claim. This approach, together with the new, online PSOB application system currently in beta-testing, will improve clarity and transparency throughout the process regarding the status of filings and claims, and avoid delays occasioned by miscommunication and misunderstandings regarding claim requirements and status. Throughout this period and the claim process period, the PSOB Office will continue to assist individuals in obtaining information needed to move a claim forward, using its subpoena authority wherever and whenever appropriate and necessary.

H. Section 32.14—PSOB Office determination.

The final rule makes conforming changes largely related to the modified claims processing procedures described in B.6, above, and to the phrasing in the rest of the rule.

I. Section 32.15—Prerequisite certification.

The final rule makes conforming changes related to the Dale Long Act amendment adding a new category of public safety officer, described in B.1, above.

J. Section 32.16—Payment.

The final rule makes conforming changes related to the Dale Long Act amendment related to distribution of benefits under 34 U.S.C. 10281(a).

K. Section 32.24—PSOB Office determination.

The final rule makes conforming changes related to the modified claims processing procedures described in B.6, above, and to the phrasing in the rest of the rule.

L. Section 32.25—Prerequisite certification.

The final rule makes conforming changes related to the Dale Long Act amendment adding a new category of public safety officer, described in B.1, above.

M. Section 32.26—Payment.

The final rule removes and reserves this section to conform to the Dale Long Act amendment related to distribution of benefits under 34 U.S.C. 10281(a).

N. Section 32.32—Time for filing a claim.

The final rule makes a grammatical correction.

O. Section 32.44—Hearing Officer determination.

The final rule makes non-substantive, stylistic changes, to conform the phrasing to the rest of the rule.

P. Section 32.45—Hearings.

The final rule adds language that is substantively the same as language proposed in PSOB II, relating to who may examine claimants during hearings.

Q. Section 32.52—Time for filing Director appeal.

The final rule makes a grammatical correction.

R. Section 32.53(a)—Review.

In keeping with the proposed rule, the final rule amends this section to allow reconsideration of certain denied claims where the public safety officer was WTC responder.

S. Section 32.54—Director determination.

The final rule makes stylistic, conforming changes related to the modified claims processing procedures described in B.6, above, and to the phrasing in the rest of the rule.

T. Section 32.55—Judicial Appeal.

The final rule removes language that unnecessarily repeats the substance of language in 34 U.S.C. 10287.

III. Regulatory Requirements

Executive Order 12866 and 13563—Regulatory Planning and Review; Executive Order 13771—Reducing Regulation and Controlling Cost

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review,'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation. The Office of Justice Programs has determined that this rule is a ''significant regulatory action'' (though not an ''economically significant'' action) under section 3(f) of the Executive Order 12866, and accordingly this rule has been reviewed

by the Office of Management and Budget (OMB).

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). As explained below, the agency has assessed the costs and benefits of this rule as required by Executive Order 12866 and 13563 and has determined that the benefits of the rule justify the costs.

The final rule may result in a de-minimis—approximately one percent of BJA's annual outlays for the PSOB Program—increase in transfer payments going forward, which BJA estimates at approximately 3 claims, or $1,032,000 per year.[5] The rule provisions relating to 9/11 claims will permit BJA to pay certain claims more quickly, by clarifying BJA's authority to apply the WTC Health Program standards, but it would be speculative to assume that this would create additional transfer payments or that these payments would be attributable to this rule (see discussion below). In any event, BJA estimates that its current appropriation levels are sufficient to cover the annual costs of transfer payments *potentially* associated with this aspect of the rule, which (based on pending cases) BJA estimates to be approximately $8.8M in currently pending claims, plus $450,000 in associated educational benefits payments. The amount would be significantly less on an annual basis going forward because the bulk of 9/11 claims have likely already been submitted.

OMB's April 5, 2017, guidance on E.O. 13771 (M–17–21), explains, with regard to transfer payments, that—

> Federal spending regulatory actions that cause only income transfers between taxpayers and program beneficiaries (for example, regulations associated with . . . Medicare spending) are considered 'transfer rules' and are not covered by E.O. 13771. . . . However . . . such regulatory actions may impose requirements apart from transfers . . . In those cases, the actions would need to be offset to the extent they impose more than de minimis costs. Examples of ancillary requirements that may require offsets include new reporting or recordkeeping requirements.

In accordance with OMB's guidance, BJA has determined that this final rule is a transfer rule. Aside from these potential transfer payments, the rule reduces the burden on claimants in substantiating certain claims under the applicable statutory requirements. The rule provisions affecting matters other than the transfer payments are deregulatory (*i.e.,* they reduce costs and burdens) by a value estimated to be approximately $24,723 per year, which amounts to $210,892 in present value over ten years.[6] This final rule is considered an E.O. 13771 deregulatory action. Details on the estimated cost savings of this proposed rule can be found below. Consistent with the principles above, BJA discusses below the costs and benefits of each substantive change to the existing rule.

A. Section 32.2—Computation of time; filing.

BJA amends this provision to authorize BJA to require that claimants file claims electronically. In October 2017, BJA deployed its online filing system, PSOB 2.0, which standardizes submission of electronic forms. Since that time, PSOB has required and only received electronic submissions. This provisions codifies the requirement that claims be submitted electronically. The electronic filing system typically saves claimants one hour per form, because the system automatically prompts users for missing items, hides irrelevant fields, and eliminates form version control problems. PSOB 2.0 allows claimants to review the contents of their claim files online and retrieve documents as needed from their submissions without the need to call or request that BJA copy and send such documents by mail, thus reducing printing and mailing costs, and the administrative time BJA staff spend handling these issues. The changes do not change the substance of the required forms, or create any new procedural or evidentiary requirements, and thus impose no new burdens on claimants.

B. Sections 32.3, 32.13, 32.23, and 32.33—Definitions.

1. Implementation of Dale Long Act Amendments Applicable to Certain Members of a Rescue Squad or Ambulance Crew

BJA makes conforming changes to address the Dale Long Act provisions that expanded the types of rescue squad and ambulance crew members covered under the PSOB Act to include non-public employee members of such squads or crews, under certain circumstances. Any potential costs for additional payable claims are created by the Dale Long Act, which has been in effect and implemented by BJA since 2013, and not by the conforming changes made by this rule. The changes will marginally reduce burdens on BJA and claimants by making the text of the PSOB rule conform to the statute.

2. Implementation of Dale Long Act Amendments Relating to Heart Attacks, Strokes, and Vascular Ruptures

BJA makes conforming and interpretive changes to address the Dale Long Act provisions that amend the PSOB Act standards at 34 U.S.C. 10281(k), for cases involving heart attacks, strokes, or vascular ruptures. The PSOB Act, as amended by the Hometown Heroes Survivors' Benefits Act of 2003, but prior to the Dale Long Act amendment in 2013, contained a presumption allowing payment of death benefits under certain circumstances to public safety officers who died of heart attacks or strokes, unless the presumption was overcome by ''competent medical evidence to the contrary.'' The Dale Long Act, among other things, added vascular ruptures to the presumption (in addition to heart attacks and strokes), and elaborated on what evidence would overcome the presumption—*i.e.,* where competent medical evidence establishes either that the heart attack, stroke, or vascular rupture was ''unrelated'' to the officer's engagement or participation in a qualifying activity; or that the heart attack, stroke, or vascular rupture ''was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.''

BJA makes conforming changes to the rule to include vascular ruptures, consistent with 34 U.S.C. 10281(k)(3), to define more precisely the circumstances under which the statutory presumption relating to heart attacks, strokes, and vascular ruptures would be overcome. This will create no costs beyond those created by the Dale Long Act. In short, BJA defines *Competent medical evidence* to rely upon the existing

[5] This estimate is based on the changes related to *Line of duty injury* to cover retaliation for actions taken in the line of duty; to *Evidence* related to out of jurisdiction activity; and to the presumption relating to volunteer fire departments and certain elements of the definition of *Instrumentality.* The amount is based on the FY17 death benefit amount.

[6] As set out in more detail below, this figure is based on the estimated annual cost savings to the public from changes to the Dale Long Act implementing provisions that will reduce the number of independent medical reviews required ($24,723); and a variety of marginal efficiencies and burden reduction for claimants created by certain streamlined provisions and definitions. BJA estimated the present day value of these cost savings over ten years using a discount rate of 3 percent.

definition of *Medical probability,* which may be established pursuant to a medical assessment based on the preponderance of the available evidence. BJA defines the first rebuttal factor, where an officer's heart attack, stroke, or vascular rupture is *Unrelated* to the engagement or participation in qualifying activity, in a common-sense way: requiring a finding that ''an independent event or occurrence'' (*e.g.,* an off-duty officer's accident) was a ''substantial contributing factor'' (a term defined in the existing regulation) in bringing the heart attack, stroke, or vascular rupture about. BJA defines the second rebuttal factor, where *Something other than the mere presence of cardiovascular disease risk factors* caused the heart attack, stroke, or vascular rupture, consistent with its current interpretation, to require a finding that the heart attack, stroke, or vascular rupture was caused by the ingestion of Schedule I drugs, or abuse of Schedule II, III, IV, or V drugs.

These interpretive amendments conform the rule to the statutory provision, and impose no costs beyond those additional transfer payments created by the statute itself. The rules should reduce the number of claims sent to an independent medical review, and the associated costs. BJA estimates that these changes will eliminate the need for approximately 41 medical reviews each year, saving BJA approximately $67,732 annually in medical review costs,[7] which amounts to $577,768 in present costs over a ten-year period, and saving claimants (in aggregate) approximately $24,723 annually, which amounts to $210,892 in present costs over a ten-year period.[8]

3. Provision Relating to the WTC Health Program and September 11th VCF Program

BJA makes changes to provisions affecting the PSOB payments related to the September 11, 2001, attacks.

First, it provides that OJP will rely on the expertise of the WTC Health Program in making a determination as to whether a condition resulted from a WTC responder's 9/11 exposures, and thus an *Injury* under the PSOB Program. Currently, 28 CFR 32.5 expressly provides that BJA may rely upon a public agency's factual finding (*e.g.,* a certification by the WTC Health Program regarding an officer's condition, or a VCF eligibility finding) to determine that an officer sustained a qualifying injury, or it may evaluate the evidence submitted by a claimant to determine whether the injury qualifies. This rule expressly provides a third approach (that could be used in the absence of a public agency finding regarding that specific officer's condition, and in lieu of independently creating standards and evaluating whether the officer's condition resulted from 9/11 exposures) under which BJA could apply the WTC Health Program's standards for when a condition is related to a WTC responder's 9/11 exposures, when determining whether an officer's condition is an injury for purposes of the PSOB Program.[9] This express approach thus would reduce costs for BJA and claimants, who would not have to replicate the scientific and medical analysis already performed by the WTC Health Program. BJA expects this would benefit those 9/11 claimants who will not obtain a public agency finding regarding the officer's exposure (*e.g.,* a claimant for a deceased officer who never sought a certification of eligibility for treatment by the WTC Health Program before dying). Attributing these transfer payments to this rule, is difficult, however, because some of these claimants may be able to substantiate their claims under the current rule, albeit at a greater cost and time burden to everyone involved, and some may eventually obtain a public agency finding from the VCF or WTC Health Program. Estimating the amount of the transfer payments also is difficult because PSOB likely will receive additional claims based on 9/11 as conditions manifest over time, conditions may be added to the List of WTC-Related Health Conditions by the WTC Health Program, and many payments are likely to be offset by VCF payments. BJA estimates that this provision would affect approximately 29 claims (27 death, 2 disability) based on WTC-related health conditions that are pending with BJA and for which BJA would, under the final rule, independently apply the WTC Health Program standards to determine an injury for purposes of the PSOB Program. (This is of 158 pending 9/11 exposure claims.) This would potentially increase transfer payments by a maximum of $8.8M total, plus approximately $450,000 in educational benefits associated with those 29 claims. Additional transfer payments would be significantly less than this amount on an annual basis going forward because the bulk of 9/11 claims have likely already been submitted.[10] Cost savings from this change are difficult to forecast, because it is uncertain how claimants would pursue their claims in the absence of the final rule, but BJA expects this to save at least several thousand dollars in BJA processing costs and claimant costs associated with establishing that a condition is related to 9/11.

Second, it specifies how offset of PSOB benefits by September 11th VCF benefits (a requirement of the Dale Long Act) will be calculated. Offset is required by statute, which the rule merely implements—thus, it creates no new costs.

Third, it clarifies that PSOB claimants whose payments are offset are still eligible for PSOB educational assistance. This change reflects BJA's current practice and the statutory framework; *i.e.,* that there is no required offset of educational assistance under the statute (as amended by Dale Long), thus it makes the rule more transparent and creates no new costs.

Fourth, it provides additional time for 9/11 exposure claimants to file their

[7] This estimate is based on an average of 92 relevant claims per year that BJA processes, of which, approximately 46 required medical review under the previous regulatory interpretation. BJA estimates it will need to conduct medical reviews for only 5 of those 92 claims under the revised rule, resulting in 41 fewer medical reviews per year. Each medical review costs BJA an average of $1652 (based on 2009–2015 death benefit data). Present costs calculated at a 3% discount rate.

[8] This estimate is based on 41 medical reviews, and the maximum fees permitted by law, which vary by state, though here BJA assumed $.67/page, and an average of 900 pages of medical records in claims for PSOB Program death benefits, as determined in a random sampling of claims involving medical issues that require a claimant to provide such records. *See, e.g.,* Joy Pritts, et al., *Privacy and Security Solutions for Interoperable Health Information Exchange: Report on State Medical Record Access Laws, https://www.healthit.gov/sites/default/files/290-05-0015-state-law-access-report-1.pdf*; Table A–5, *Overview of State Law: Maximum Fees Doctors and Hospitals May Charge Patients for Copies of Medical Records https://www.healthit.gov/sites/default/files/appa5-1.pdf* (accessed June 16, 2016). BJA estimated the present day value of these cost savings over ten years using a discount rate of 3 percent.

[9] See the discussion of the James Zadroga 9/11 Health and Compensation Act of 2010, describing the analysis performed by the WTC Health Program, at 81 FR 46019, 46020 (PSOB I Notice of Proposed Rulemaking).

[10] As of July 17, 2017, there were 158 total PSOB death and disability claims pending with assertions of injuries based on some kind of 9/11-related exposure. Of these, BJA estimates that approximately 29 would be determined much sooner if BJA uses the authority in the final rule to independently apply the WTC Health Program standards, instead of waiting for the claimant to obtain a WTC Health Program certification or VCF equivalent or requiring additional evidence. Some of those claimants may be able to substantiate their claims without the rule change, though only with additional documentation, and it is likely that some payments would be offset for VCF benefits. For this subset of pending claims based on 9/11-related exposure, BJA estimates that if all 29 claims are approved, up to 49 additional people may qualify for educational assistance at some point in the future. BJA estimated the annual educational assistance benefit increase using the FY 2017 maximum monthly payment rate of $1024 per month based on those 49 additional people each claiming 9 months of educational assistance.

claims (see *Time for filing a claim* provisions at 32.12 and 32.22), and allows reconsideration of certain denied claims for WTC responders (see 32.53(a)). These equitable procedural rule changes prevent unfairness to claimants whose claims would be approved under the WTC Health Program standards, or who would have filed had they been able to take advantage of those standards. This may cause BJA to make some transfer payments that it would not have done under the current rule, but BJA does not expect this to alter its overall cost estimate for 9/11 claims that take advantage of BJA's reliance upon the WTC Health Program standards (see above).

4. Trainees

BJA makes express the coverage of certain public safety officer trainees by adding new terms, *Candidate officer* and *Candidate-officer training,* and amending the terms *Firefighter, Involvement,* and *Member of a rescue squad or ambulance crew* to include the new terms. This change will not impose any new costs, but it will marginally reduce the burden for program staff and claimants in understanding the conditions under which trainees are covered.

5. Child of a Public Safety Officer

BJA makes a conforming change to this definition related to the Dale Long Act. It creates no new costs.

6. Provisions Related to Claims Processing

This rule creates a pre-claim process by which claimants may stay the claim filing deadline while they continue to gather necessary evidence, and BJA may more expeditiously issue a final determination on claims that patently lack necessary evidence. BJA anticipates that this procedure will allow it to better allocate resources to reviewing completed files, and will clarify for reporting purposes which files are ''ripe'' and should be counted as claims pending with BJA versus those where the claimant is still gathering evidence. BJA expects that this will preempt the need for hearing officer proceedings in several claims each year, and marginally reduce the burden on program staff. Hearing officer proceedings can cost several thousand dollars (or more when claimant attorneys' fees are factored in), thus BJA expects this provision to save several thousand dollars each year for BJA and claimants.

7. Gross Negligence

BJA amends the definition of *Gross negligence* to make patent in the rule that actions that otherwise would be gross negligence, and thus a statutory bar to payment, are not considered gross negligence when reasonably excused or objectively justified. BJA expects the revised provision will create no new costs, but will be easier for program staff and claimants to understand and apply, thus marginally reducing the burden associated with claims involving actions potentially implicating this disentitling factor.

8. Authorized Commuting Clarification

BJA amends the definition of *Authorized commuting* to clarify that return travel by a public safety officer from certain activities constitutes ''authorized commuting'' and, therefore, injuries sustained in the course of such travel are compensable as line of duty injuries. This clarification merely makes patent BJA's existing interpretation related to injuries sustained by public safety officers while commuting, thus imposes no new costs. It will, however, marginally reduce the burden on claimants by clarifying an aspect of authorized commuting that may have caused confusion among claimants and program staff, thus facilitating the collection of relevant documentation, reducing delays associated with resolving factual questions, and preempting potential litigation.

9. Line of Duty Injury—Retaliation for Action in the Line of Duty

BJA amends the term *Line of duty injury* so as expressly to include those injuries sustained as a result of retaliation for actions taken in the line of duty by an officer. This adds to the existing regulations, which provide that a *Line of duty injury* includes an injury resulting from the injured party's status as a public safety officer. Very few PSOB claims received to date have involved retaliation. Accordingly, BJA anticipates—at most (perhaps one claim per year, if that)—a negligible increase in transfer payments as a result of this provision.

10. Volunteer Fire Departments as Instrumentalities

BJA adds a legal presumption that volunteer fire departments meeting specified criteria satisfy certain elements of the definition of *Instrumentality* of a public agency. BJA anticipates that this change may marginally (by perhaps one claim per year) increase the transfer payments under the program. The change would marginally reduce the burden for program staff in determining, and of claimants in showing, that a volunteer fire department qualifies under the program.

11. Spouse

BJA amends the definition of *Spouse* to update the rule to reflect current jurisprudence. This does not create any new costs.

C. Section 32.4—Terms; construction; severability.

BJA makes a technical change conforming the rule to the PSOB Act. This change creates no new costs.

D. Section 32.5—Evidence.

BJA makes express the circumstances under which officers engaging in public safety activity outside of their jurisdictions would be considered to be acting in the line of duty, by adding a series of presumptions in the *Evidence* provision at 32.5. BJA anticipates that this change may marginally (by an estimated one claim per year) increase the transfer payments under the program, because it may make it easier for officers injured outside of their jurisdiction to establish that they were engaging in a line of duty activity or action when injured. The change will marginally reduce the burden for program staff and claimants of understanding the circumstances under which such officers are covered.

BJA makes a conforming change to *Evidence* at 32.5(b) related to the PSOB Improvement Act of 2017, to ensure that those reading the rule do not overlook a relevant statutory provision. The change creates no new costs, but may marginally reduce burdens by preventing confusion.

E. Section 32.6—Payment and repayment.

BJA amends this provision to implement offset of PSOB death and disability benefits by September 11th VCF program compensation. The amendments reflect BJA's current practice and create no new costs.

F. Section 32.7—Fees for representative services.

BJA amends this section to provide a percentage-fee option, which offers a simplified and more transparent way for attorneys to determine how much they can charge for representing PSOB claimants in their PSOB claims, and eliminates the need for BJA to review fee petitions in such cases. BJA anticipates the change will not result in increased payment of attorneys' fees, but will reduce BJA's administrative burden by 2.5 hours of GS–14 time for

each fee petition, saving an estimated $1391 worth of staff time annually.

G. Sections 32.12 and 32.22—Time for filing a claim; 32.53(a)—Review.

BJA makes certain changes to filing deadlines for 9/11 claimants—see costs-benefit discussion above in paragraph III.B.3.

H. Non-Substantive Changes To Conform the Rule to the Statute or Other Provisions of the Rule, or To Make Technical Corrections.

BJA makes conforming or technical changes to sections 32.14, 32.15, 32.16, 32.24, 32.25, 32.26, 32.32, 32.44, 32.45, 32.52, 32.54, and 32.55, and removes the definitions of *Dependent, Eligible dependent,* and *Tax year.* These changes do not create costs beyond those addressed above.

Executive Order 13132—Federalism

This rule would not have substantial direct effects on the States, on the relationship between the federal government and the States, or on distribution of power and responsibilities among the various levels of government. The PSOB program statutes provide benefits to individuals and do not impose any special or unique requirements on States or localities. Therefore, in accordance with Executive Order No. 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) & (b)(2) of Executive Order No. 12988. Pursuant to section 3(b)(1)(I) of the Executive Order, nothing in this rule or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the Program that is the subject of this rule is intended to create any legal or procedural rights enforceable against the United States, except as the same may be contained within part 32 of title 28 of the Code of Federal Regulations.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule addresses federal agency procedures; furthermore, this rule makes amendments to clarify existing regulations and agency practice concerning public safety officers' death, disability, and education benefits and does nothing to increase the financial burden on any small entities. Therefore, an analysis of the impact of this rule on such entities is not required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act of 1995

The PRA requires certain actions before an agency can adopt or revise a collection of information, including publishing a summary of the collection of information and a brief description of the need for and proposed use of the information. 44 U.S.C. 3507.

This rule would not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR part 1320. OMB has approved the collection of information for the PSOB Program under the following: Report of Public Safety Officers' Permanent and Total Disability, OMB Control No. 1121–0166, approved July 27, 2016; Report of Public Safety Officers' Death, OMB Control No. 1121–0025, approved July 27, 2016; Claim for Death Benefits, OMB Control No. 1121–0024, approved August 18, 2016. OJP will comply with the PRA by revising its collection of information to reflect modified reporting requirements when it implements electronic filing as provided in the newly added 28 CFR 32.2(g).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The PSOB program is a federal benefits program that provides benefits directly to qualifying individuals. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Education, Emergency medical services, Firefighters, Law enforcement officers, Reporting and recordkeeping requirements, Rescue squad.

Accordingly, for the reasons set forth in the preamble, part 32 of chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 32—PUBLIC SAFETY OFFICERS' DEATH, DISABILITY, AND EDUCATIONAL ASSISTANCE BENEFIT CLAIMS

■ 1. The authority citation for 28 CFR Part 32 is revised to read as follows:

Authority: 34 U.S.C. ch. 101, subch. XI; 34 U.S.C. 10110, 10221(a), 10225, 10226, 10251(a), 10261(a)(4) & (b), 10272, 110286, 10287, 10288; Pub. L. 90 351, title IX, sec. 1601, 82 Stat. 239; Pub. L. 94 430, secs. 4 through 6, 90 Stat. 1348; Pub. L. 106–113, div. B, sec. 1000(a)(1) [title I, sec. 108(a)], 113 Stat. 1535, 1501A–20, as amended by Pub. L. 107–56, title VI, sec. 614, 115 Stat. 370, and codified (as amended) as a statutory note to 34 U.S.C. 10110; Pub. L. 106–553, sec. 1(a)(2) [title I, sec. 108], 114 Stat. 2762, 2762A–6; Pub. L. 107 37, secs. 1 and 2, 115 Stat. 219.

■ 2. Amend § 32.2 as follows:
■ a. In paragraph (b), remove ''A filing'' and add in its place ''Except as provided in paragraph (g) of this section, a filing''.
■ b. In paragraph (c) introductory text, remove ''Notice'' and add in its place ''Except as provided in paragraph (g) of this section, notice''.
■ c. In paragraph (c)(1), add ''or'' after the semicolon.
■ d. In paragraph (c)(2), remove ''; or'' and add in its place a period.
■ e. Remove paragraph (c)(3).
■ f. In paragraphs (e) and (f), remove ''42 U.S.C. 3796(a)'' and add in its place ''34 U.S.C. 10281(a)''.
■ g. In paragraphs (e) and (f), remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.
■ h. Add paragraph (g).

The addition reads as follows:

§ 32.2 Computation of time; filing.

* * * * *

(g) The Director may prescribe that—

(1) Any filing be filed using electronic means, in which case it shall be deemed filed when it is submitted electronically; and

(2) Any notice, within the meaning of paragraph (c) of this section, be served by the PSOB Office upon an individual by electronic means (such as by telefacsimile or electronic mail addressed to the individual (or to his representative) at his (or his representative's) last address known to such Office), in which case it shall be deemed served on the day that such notice is sent.

■ 3. Amend § 32.3 as follows:
■ a. Revise the definition of *Act.*
■ b. Revise the definition of *Authorized commuting.*
■ c. Add definitions of *Candidate-officer; Candidate-officer training;* and *Certification described in the Act, at 34 U.S.C. 10286 or Public Law 107–37* in alphabetical order.

■ d. Remove the definition of *Certification described in the Act, at 42 U.S.C. 3796c–1 or Public Law 107–37.*
■ e. In the definition of *Chaplain,* remove ''42 U.S.C. 3796b(2)'' and add in its place ''34 U.S.C. 10284(2)''.
■ f. Revise paragraph (1) of the definition of *Child of a public safety officer.*
■ g. Add definitions of *Claim* and *Claimant* in alphabetical order.
■ h. Remove the definition of *Consequences of an injury that permanently prevent an individual from performing any gainful work.*
■ i. In the definition of *Department or agency,* remove ''42 U.S.C. 3796b(8)'' and add in its place ''34 U.S.C. 10284(8)''.
■ j. In paragraph (2) of the definition of *Department or agency,* remove ''42 U.S.C. 3796b(9)(B)'' and add in its place ''34 U.S.C. 10284(9)(B)''.
■ k. In the definition of *Determination,* remove '', the determination described in the Act, at 42 U.S.C. 3796(c), or any recommendation under § 32.54(c)(3)''.
■ l. In the definitions of *Direct and proximate cause* and *Direct and proximate result of an injury,* remove ''42 U.S.C. 3796(k)'' each place it appears and add in its place ''34 U.S.C. 10281(k)''.
■ m. In the definitions of *Disaster relief activity* and *Disaster relief worker,* remove ''42 U.S.C. 3796b(9)(B)'' each place it appears and add in its place ''34 U.S.C. 10284(9)(B)''.
■ n. In the definition of *Divorce,* remove ''divorce from the'' and add in its place ''(for civil purposes) dissolution of the''.
■ o. Revise the definition of *Drugs or other substances.*
■ p. In paragraph (1) of the definition of *Eligible payee,* remove ''42 U.S.C. 3796(a)'' and add in its place ''34 U.S.C. 10281(a)''.
■ q. In paragraph (2) of the definition of *Eligible payee,* remove ''42 U.S.C. 3796(b)'' and add in its place ''34 U.S.C. 10281(b)''.
■ r. In paragraph (1) of the definition of *Emergency medical services,* remove ''Provision of first-response'' and add in its place ''First-response''.
■ s. In the introductory text of the definition of *Employed by a public agency,* remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.
■ t. In paragraph (2)(i) of the definition of *Employed by a public agency,* remove ''of any kind but disaster relief workers); or'' and add in its place ''described in the Act, at 34 U.S.C. 10284(9)(A));''.
■ u. In paragraph (2)(ii) of the definition of *Employed by a public agency,* remove ''42 U.S.C. 3796b(9)(B) or (C) (with respect to disaster relief workers)'' and add in its place ''34 U.S.C. 10284(9)(B) or (C) (with respect to disaster relief workers); or''.
■ v. In the definition of *Employed by a public agency,* add paragraph (2)(iii).
■ w. In paragraph (1) of the definition of *Firefighter,* add ''(or is receiving candidate-officer training)'' after ''trained''.
■ x. In the introductory text of paragraph (2) of the definition of *Firefighter,* remove ''authority and'' and add in its place ''authority or''.
■ y. In paragraph (2)(i) of the definition of *Firefighter,* add ''(or candidate-officer)'' after ''employee''.
■ z. In paragraph (2)(i) of the definition of *Firefighter,* remove ''42 U.S.C. 3796b(4)'' and add in its place ''34 U.S.C. 10284(4)''.
■ aa. Add a definition of *Foundational evidence as to status or injury* in alphabetical order.
■ bb. In the introductory text of the definition of *Gross negligence,* remove ''practice—'' and add in its place ''practice (which departure is without reasonable excuse and is objectively unjustified)—''.
■ cc. In the definition of *Injury,* remove ''radiation, virii, or bacteria, but'' and add in its place ''radiation, virus, or bacteria, and includes (with respect to a WTC responder) a WTC-related health condition, but''.
■ dd. In the introductory text of the definition of *Injury date,* remove ''42 U.S.C. 3796(k) (where, for purposes of determining beneficiaries under the Act, at 42 U.S.C. 3796(a), it generally means the time of the heart attack or stroke referred to in the Act, at 42 U.S.C. 3796(k)(2)), injury'' and add in its place ''34 U.S.C. 10281(k) (where, for purposes of determining beneficiaries under the Act, at 34 U.S.C. 10281(a), it generally means the time of the engagement or participation referred to in the Act, at 34 U.S.C. 10281(k)(1)), injury''.
■ ee. In the introductory text of the definition of *Instrumentality,* remove ''except that no entity shall be considered an instrumentality within the meaning of the Act, at 42 U.S.C. 3796b(8), or'' and add in its place ''except that, subject to § 32.5(m), no entity shall be considered an instrumentality within the meaning of the Act, at 34 U.S.C. 10284(8), or''.
■ ff. Add a definition of *Intention-notice filer* in alphabetical order.
■ gg. In paragraph (1)(i)(B) of the definition of *Intentional misconduct,* remove ''the public agency in which he serves'' and add in its place ''his public safety agency''.
■ hh. In the definition of *Involvement,* remove ''officer of a public agency and, in that capacity, has legal authority and'' and add in its place ''officer (including a candidate-officer) of a public agency and, in that capacity, has legal authority or''.
■ ii. Revise the introductory text of the definition of *Line of duty activity or action.*
■ jj. In the introductory text of paragraph (1) of the definition of *Line of duty activity or action,* remove ''officer, a firefighter, or a member of a rescue squad or ambulance crew—'' and add in its place ''officer or a firefighter—''.
■ kk. Revise paragraph (1)(i) of the definition of *Line of duty activity or action.*
■ ll. Revise paragraph (1)(ii) of the definition of *Line of duty activity or action.*
■ mm. In paragraph (2) of the definition of *Line of duty activity or action,* remove ''agency he serves (or the relevant government), being described in the Act, at 42 U.S.C. 3796b(9)(B)'' and add in its place ''public agency in which he is an employee (or the relevant government), being described in the Act, at 34 U.S.C. 10284(9)(B)''.
■ nn. In paragraph (2) and paragraph (3) introductory text of the definition of *Line of duty activity or action,* remove ''42 U.S.C. 3796a(1), and not being'' each place it appears and add in its place ''34 U.S.C. 10282(a), and not being commuting or''.
■ oo. In the definition of *Line of duty activity or action,* add paragraph (4).
■ pp. Revise paragraph (2) of the definition of *Line of duty injury.*
■ qq. Add a definition of *Notice of intention to file a claim* in alphabetical order.
■ rr. In the definition of *Official capacity,* remove ''An'' and add in its place ''Subject to § 32.5(l), an''.
■ ss. Remove the definition of *Official training program of a public safety officer's public agency.*
■ tt. Add a definition of *Official training program of a public safety officer's public safety agency* in alphabetical order.
■ uu. Add a definition of *Officially recognized or designated employee member of a rescue squad or ambulance crew* in alphabetical order.
■ vv. In the definition of *Officially recognized or designated member of a department or agency,* remove ''42 U.S.C. 3796b(8)'' and add in its place ''34 U.S.C. 10284(8)''.
■ ww. Remove the definition of *Officially recognized or designated public employee member of a squad or crew.*
■ xx. Add a definition of *Officially recognized or designated volunteer member of a rescue squad or ambulance crew* in alphabetical order.

■ yy. In the definition of *Public employee,* remove ''42 U.S.C. 3796b(8)'' each place it appears and add in its place ''34 U.S.C. 10284(8)''.
■ zz. Remove the definition of *Public employee member of a squad or crew.*
■ aaa. Add a definition of *Public safety agency* in alphabetical order.
■ bbb. In the introductory text of the definition of *Qualified beneficiary,* remove ''42 U.S.C. 3796c-1'' and add in its place ''34 U.S.C. 10286''.
■ ccc. In paragraph (1)(i) of the definition of *Qualified beneficiary,* remove ''42 U.S.C. 3796(a)'' and add in its place ''34 U.S.C. 10281(a)''.
■ ddd. In the introductory text of the definition of *Rescue squad or ambulance crew,* add ''(including candidate-officers)'' after ''members''.
■ eee. In paragraph (1) of the definition of *Rescue squad or ambulance crew,* add ''(or are receiving candidate-officer training)'' after ''trained''.
■ fff. Add a definition of *September 11, 2001, attacks* in alphabetical order.
■ ggg. Revise the definition of *Spouse.*
■ hhh. In the definition of *Stroke,* remove ''cerebral vascular'' and add in its place ''cerebrovascular''.
■ iii. In the definition of *Student,* remove ''42 U.S.C. 3796b(3)(ii)'' and add in its place ''34 U.S.C. 10284(3)(ii)''.
■ jjj. In the introductory text of the definition of *Substantial contributing factor,* remove '', or disability,'' and add in its place '', disability, heart attack, stroke, or vascular rupture,''.
■ kkk. Add a definition of *Supporting-evidence collection period* in alphabetical order.
■ lll. In the introductory text of the definition of *Terrorist attack,* remove ''42 U.S.C. 3796c-1(a)'' and add in its place ''34 U.S.C. 10286(a)''.
■ mmm. Remove the definition of *Voluntary intoxication at the time of death or catastrophic injury.*
■ nnn. Add definitions of *Voluntary intoxication at the time of fatal or catastrophic injury; WTC-related health condition;* and *WTC responder* in alphabetical order.

The additions and revisions read as follows:

§ 32.3 Definitions.

Act means the Public Safety Officers' Benefits Act of 1976 (generally codified at 34 U.S.C. 10281, *et seq.;* part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968) (including (uncodified) sections 4 through 6 thereof (payment in advance of appropriations, rule of construction and severability, and effective date and applicability)), as applicable (cf. § 32.4(d)) according to its effective date and those of its various amendments (*e.g.,* Sep. 29, 1976 (deaths of State and local law enforcement officers and firefighters); Oct 3, 1996 (educational assistance (federal law enforcement officer disabled)); Nov. 14, 1998 (educational assistance (officer (other than federal law enforcement officer) disabled)); Oct. 30, 2000 (disaster relief workers); Sep. 11, 2001 (chaplains and insurance beneficiaries); Dec. 15, 2003 (certain heart attacks and strokes); Apr. 5, 2006 (designated beneficiaries); June 1, 2009 (certain members of rescue squads or ambulance crews); Jan. 2, 2013 (designated beneficiaries; vascular ruptures); and June 2, 2017 (certain administrative changes)); and also includes Public Law 107–37 and section 611 of the USA PATRIOT Act (both of which relate to payment of benefits, described under subpart 1 of such part L, in connection, respectively, with the terrorist attacks of Sept. 11, 2001, or with such terrorist attacks as may occur after Oct. 26, 2001), as well as the proviso under the Public Safety Officers Benefits heading in title II of division B of section 6 of Public Law 110–161.

* * * * *

Authorized commuting means travel (not being described in the Act, at 34 U.S.C. 10282, and not being a frolic or detour) by a public safety officer to and from work (at a situs (for the performance of line of duty activity or action) authorized or required by his public safety agency)—

(1) In the course of actually responding (as authorized)—

(i) Directly to a fire, rescue, or police emergency; or

(ii) To a particular and extraordinary request (by such public safety agency) for that specific officer to perform public safety activity (including emergency response activity the agency is authorized to perform), within his line of duty; or

(2) Under circumstances not described in paragraph (1) of this definition—

(i) While using a vehicle provided by such agency, pursuant to a requirement or authorization by such agency that he use the same for travel to and from work; or

(ii) While using a vehicle not provided by such agency, pursuant to a requirement by such agency that he use the same for work.

* * * * *

Candidate-officer means an individual who is officially enrolled or -admitted, as a cadet or trainee, in candidate-officer training.

Candidate-officer training means a formal and officially recognized program of instruction or of training (*e.g.,* a police or fire academy) that is specifically intended to result, directly or immediately upon completion, in—

(1) Commissioning of such individual as a law enforcement officer;

(2) Conferral upon such individual of official authority to engage in fire suppression (as an officer or employee of a public fire department or as an officially recognized or -designated member of a legally organized volunteer fire department); or

(3) The granting to such individual of official authorization or -license to engage in rescue activity, or in the provision of emergency medical services, as a member of a rescue squad or ambulance crew that is (or is part of) the agency or entity sponsoring the individual's enrollment or admission

* * * * *

Certification described in the Act, at 34 U.S.C. 10286 or Public Law 107–37 means a certification, acknowledging all the matter specified in § 32.5(f)(1) and (2)—

(1) In which the fact (or facts) asserted is the matter specified in § 32.5(f)(3);

(2) That expressly indicates that all of the terms used in making the assertion described in paragraph (1) of this definition (or used in connection with such assertion) are within the meaning of the Act, at 34 U.S.C. 10286 or Public Law 107–37, and of this part; and

(3) That otherwise satisfies the provisions of the Act, at 34 U.S.C. 10286 or Public Law 107–37, and of this part.

* * * * *

Child of a public safety officer means an individual—

(1) Who meets the definition provided in the Act, at 34 U.S.C. 10284(3); and

* * * * *

Claim means a request (in such form, and containing such information, as the Director may require from time to time) for payment of benefits under this part, where the individual seeking payment has affirmatively requested that the PSOB Office proceed to determination on the basis of the supporting evidence filed by or on behalf of the individual (and any associated legal arguments so filed) at or before the time of that affirmative request: *Provided,* That nothing in this definition shall be understood to preclude any PSOB determining official from (at any time) obtaining or considering other evidence in connection with a determination of the claim.

Claimant means an individual who has filed a claim on his own behalf or on whose behalf a claim has been filed.

* * * * *

Drugs or other substances means—

(1) Controlled substances within the meaning of the drug control and

enforcement laws, at 21 U.S.C. 802(6), including any active metabolite (*i.e.,* any metabolite whose introduction into (or presence otherwise in) the human body, ordinarily or objectively can result in a disturbance of mental or physical faculties) of any such controlled substance; or

(2) Any physical matter (other than alcohol, or anything described in paragraph (1) of this definition) whose introduction into (or presence otherwise in) the human body, ordinarily or objectively can result in a disturbance of mental or physical faculties.

* * * * *

Employed by a public agency

* * * * *

(2) * * *

(iii) Engaging in activity (or in the provision of services) described in the Act, at 34 U.S.C. 10284(9)(D), under the authority (or by the license) of a public agency (with respect to rescue squad or ambulance crew members).

* * * * *

Foundational evidence as to status and injury means supporting evidence (filed by a claimant at or before the time his claim is filed) that constitutes the basis for his belief or assertion that—

(1) The individual upon whose injury the claim is predicated—

(i) Was a public safety officer as of the injury date; and

(ii) As the direct and proximate result of a personal injury sustained in the line of duty, either—

(A) Died (with respect to a claim under subpart B of this part); or

(B) Became permanently and totally disabled (with respect to a claim under subpart C of this part); and

(2) With respect to a claim under subpart B of this part, the claimant is an eligible payee.

* * * * *

Intention-notice filer means an individual—

(1) Who believes that he may be an eligible payee;

(2) Who has filed a notice of intention to file a claim; and

(3) Who has no claim pending.

* * * * *

Line of duty activity or action—Subject to § 32.5(j) and (k), activity or an action is performed in the line of duty, in the case of a public safety officer who is (as of the injury date)—

(1) * * *

(i) Whose primary function (as applicable) is public safety activity, only if, not being described in the Act, at 34 U.S.C. 10282(a), and not being commuting or a frolic or detour—

(A) It is activity or an action that he is obligated or authorized by statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law, to perform (including any social, ceremonial, or athletic functions (or any official training programs of his public agency) to which he is assigned, or for which he is compensated), under the auspices of the public agency he serves; and

(B) Such agency (or the relevant government) legally recognizes that activity or action to have been so obligated or authorized at the time performed (or, at a minimum, does not deny (or has not denied) it to have been such); or

(ii) Whose primary function is not public safety activity, only if, not being described in the Act, at 34 U.S.C. 10282(a), and not being commuting or a frolic or detour—

(A) It is activity or an action that he is obligated or authorized by statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law, to perform (including any social, ceremonial, or athletic functions (or any official training programs of his public agency) to which he is assigned, or for which he is compensated), under the auspices of the public agency he serves;

(B) It is performed (as applicable) in the course of public safety activity (including emergency response activity the agency is authorized to perform), or taking part (as a trainer or trainee) in an official training program of his public agency for such activity, and such agency (or the relevant government) legally recognizes it to have been such at the time performed (or, at a minimum, does not deny (or has not denied) it to have been such); and

(C) Such agency (or the relevant government) legally recognizes (or, at a minimum, does not deny (or has not denied) that activity or action to have been—

(*1*) Obligated or authorized (as described in paragraph (1)(ii)(A) of this definition) at the time performed; and

(*2*) Performed as described in paragraph (1)(ii)(B) of this definition;

* * * * *

(4) A member of a rescue squad or ambulance crew, only if, not being described in the Act, at 34 U.S.C. 10282(a), and not being commuting or a frolic or detour, it is performed in the course of rescue activity (or of the provision of emergency medical services) that he is authorized or licensed, by law and by his public safety agency, to engage in (or provide) as described in the Act, at 34 U.S.C. 10284(9)(D), and such agency (and the relevant government) legally recognizes it to have been such at the time performed (or, at a minimum, does not deny (or has not denied) it to have been such).

* * * * *

Line of duty injury

* * * * *

(2) In connection with any claim in which the injury is not sustained as described in paragraph (1) of this definition:

(i) The injured party's status as a public safety officer was a substantial contributing factor in the injury; and

(ii) Where the injury is brought about by the hostile action of an individual—

(A) The individual knew of the injured party's status as a public safety officer; and

(B) Nothing else motivated the individual's taking of his hostile action to so great a degree as either of the following did:

(*1*) The injured party's status as a public safety officer; or

(*2*) Retaliation for line of duty activity or a line of duty action performed by a public safety officer (including the injured party).

* * * * *

Notice of intention to file a claim—Nothing shall be understood to be a notice of intention to file a claim unless it names the individual upon whose injury such a claim would be predicated and otherwise is in such form, and contains such other information, as the Director may require from time to time therefor.

* * * * *

Official training program of a public safety officer's public safety agency means a program—

(1) That is officially sponsored, -conducted, or -authorized by his public safety agency; and

(2) Whose purpose is to train public safety officers of his kind in (or to improve their skills in), specific activity or actions encompassed within their respective lines of duty.

Officially recognized or designated employee member of a rescue squad or ambulance crew means an employee member of a rescue squad or ambulance crew (described in the Act, at 34 U.S.C. 10284(7)) who is officially recognized (or officially designated) as such an employee member, by such squad or crew.

Officially recognized or designated volunteer member of a rescue squad or ambulance crew means a volunteer member of a rescue squad or ambulance crew (described in the Act, at 34 U.S.C. 10284(7)) who is officially recognized (or officially designated) as such a

volunteer member, by such squad or crew.

* * * * *

Public safety agency means—

(1) A public agency—

(i) That an individual described in the Act, at 34 U.S.C. 10284(9)(A), serves in an official capacity; or

(ii) For which an employee described in the Act, at 34 U.S.C. 10284(9)(B) or (C) performs official duties; or

(2) An agency or entity under whose authority (or by whose license) a member of a rescue squad or ambulance crew engages in activity (or in the provision of services) described in the Act, at 34 U.S.C. 10284(9)(D).

* * * * *

September 11, 2001, attacks means September 11, 2001, terrorist attacks, as defined (as of January 17, 2017) at 42 CFR 88.1.

Spouse means an individual with whom another individual lawfully entered into marriage under the law of the jurisdiction in which it was entered into, and includes a spouse living apart from the other individual, other than pursuant to divorce, except that—

(1) In connection with a claim, the term does not include anyone upon whose injury the claim is predicated; and

(2) Notwithstanding any other provision of law—

(i) For an individual purporting to be a spouse on the basis of a common-law marriage (or a putative marriage), or on any other basis, to be considered a spouse within the meaning of this definition, it is necessary (but not sufficient) for the jurisdiction of domicile of the parties to recognize such individual as the lawful spouse of the other individual; and

(ii) In deciding who may be the spouse of a public safety officer—

(A) The relevant jurisdiction of domicile is the officer's (as of the injury date); and

(B) With respect to a claim under subpart B of this part, the relevant date is that of the officer's death.

* * * * *

Supporting-evidence collection period means the period—

(1) That begins upon the filing of a notice of intention to file a claim, and ends upon the earlier of—

(i) One year thereafter (unless, for good cause shown, the Director extends the period); or

(ii) The date on which such claim is filed; and

(2) During which an intention-notice filer may collect and assemble supporting evidence for his intended claim.

* * * * *

Voluntary intoxication at the time of fatal or catastrophic injury means the following, as shown by any commonly-accepted tissue, -fluid, or -breath test or by other competent evidence:

(1) With respect to alcohol,

(i) In any claim arising from a public safety officer's death in which the death was simultaneous (or practically simultaneous) with the injury, it means intoxication as defined in the Act, at 34 U.S.C. 10284(5), unless convincing evidence demonstrates that the officer did not introduce the alcohol into his body intentionally; and

(ii) In any claim not described in paragraph (1)(i) of this definition, unless convincing evidence demonstrates that the officer did not introduce the alcohol into his body intentionally, it means intoxication—

(A) As defined in the Act, at 34 U.S.C. 10284(5), *mutatis mutandis* (*i.e.,* with ''post-mortem'' (each place it occurs) and ''death'' being substituted, respectively, by ''post-injury'' and ''injury''); and

(B) As of the injury date; and

(2) With respect to drugs or other substances, it means intoxication as defined in the Act, at 34 U.S.C. 10284(5), as evidenced by the presence (as of the injury date) in the body of the public safety officer—

(i) Of any of the following, unless convincing evidence demonstrates that the introduction of the controlled substance into the body was not a culpable act of the officer's under the criminal laws:

(A) Any controlled substance included on Schedule I of the drug control and enforcement laws (see 21 U.S.C. 812(a));

(B) Any controlled substance included on Schedule II, III, IV, or V of the drug control and enforcement laws (see 21 U.S.C. 812(a)) and with respect to which there is no therapeutic range or maximum recommended dosage;

(C) Any controlled substance included on Schedule II, III, IV, or V of the drug control and enforcement laws (see 21 U.S.C. 812(a)) and with respect to which there is a therapeutic range or maximum recommended dosage, at levels above or in excess of such range or dosage; or

(D) Any active metabolite of any controlled substance within the meaning of the drug control and enforcement laws, at 21 U.S.C. 802(6), which metabolite is not itself such a controlled substance;

(ii) Of any drug or other substance (other than one present as described in paragraph (2)(i) of this definition), unless convincing evidence demonstrates that—

(A) The introduction of the drug or other substance into the body was not a culpable act of the officer's under the criminal laws; and

(B) The officer was not acting in an intoxicated manner immediately prior to the injury date.

WTC-related health condition means—

(1) A WTC-related physical health condition determined by the September 11th Victim Compensation Fund, for the specific WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017);

(2) A WTC-related health condition (other than a mental health condition) that the WTC Health Program has certified, for the specific WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii); or

(3) An illness or health condition, as defined in (and determined pursuant to) 42 U.S.C. 300mm–22(a)(1)(A)(i), that is a WTC-related physical health condition, as defined at section 104.2(i) of this title (as in effect on January 17, 2017).

WTC responder means an individual who—

(1) Meets the definition at 42 U.S.C. 300mm–21(a)(1)(A) and has been identified as enrolled in the WTC Health Program, under 42 CFR 88.3 (as in effect on January 17, 2017);

(2) Meets the definition at 42 U.S.C. 300mm–21(a)(1)(B) and has received an affirmative decision from the WTC Health Program under 42 CFR 88.6(d)(1) (as in effect on January 17, 2017);

(3) Meets the definition at 42 U.S.C. 300mm–31(a)(1) and—

(i) Has been identified as certified-eligible under 42 CFR 88.7 (as in effect on January 17, 2017); or

(ii) Has received the status of a certified-eligible survivor from the WTC Health Program under 42 CFR 88.12 (as in effect on January 17, 2017);

(4) Has been determined by the September 11th Victim Compensation Fund to be an eligible claimant under section 104.2(b)(1) of this title (as in effect on January 17, 2017); or

(5) Subject to 42 U.S.C. 300mm–21(a)(5), meets the definition at 42 U.S.C. 300mm–21(a)(1).

■ 4. Amend § 32.4 as follows:

■ a. In paragraph (b), remove ''42 U.S.C. 3796a(4)'' and add in its place ''34 U.S.C. 10282(a)(4)''.

■ b. In paragraph (d), remove ''42 U.S.C. 3796(k), shall apply only with respect to heart attacks or strokes referred to in the Act, at 42 U.S.C. 3796(k)(2)'' and add in its place ''34 U.S.C. 10281(k), shall apply only with respect to heart attacks,

strokes, or vascular ruptures referred to in the Act, at 34 U.S.C. 10281(k)(2))''.

■ c. Add paragraph (e).

The addition reads as follows:

§ 32.4 Terms; construction; severability; effect.

* * * * *

(e) Unless expressly provided otherwise, any reference in this part to any provision of law not in this part shall be understood to constitute a general reference under the doctrine of incorporation by reference, and thus to include any subsequent amendments to the provision.

■ 5. Amend § 32.5 as follows:

■ a. In paragraph (b), remove ''provided in this part, the PSOB determining official may, at his discretion, consider (but shall not be bound by) the factual findings of a public agency.'' and add in its place ''provided in the Act or this part, the PSOB determining official may, at his discretion, consider (but shall not be bound by) the factual findings of a public agency (or public safety agency).''.

■ b. In paragraph (f), remove ''42 U.S.C. 3796c–1'' each place it appears and add in its place ''34 U.S.C. 10286''.

■ c. In paragraph (f)(1)(ii), remove (*i.e.,* performing official functions for, or on behalf of, the agency);'' and add in its place ''and performing official functions for, or on behalf of, the agency;''.

■ d. In paragraph (f)(1)(iii)(D), remove ''public employee member of one of the agency's rescue squads or ambulance crews;'' and add in its place ''employee member or volunteer member of a rescue squad or ambulance crew that is (or is a component of) the agency;''.

■ e. In paragraph (f)(1)(iii)(E), remove ''42 U.S.C. 3796b(9)(B)'' and add in its place ''34 U.S.C. 10284(9)(B)''.

■ f. In paragraph (g), remove ''42 U.S.C. 3787 (hearings, subpoenas, oaths, witnesses, evidence), and to the authorities specified at 42 U.S.C. 3788(b)–(d)'' and add in its place ''34 U.S.C. 10225 (hearings, subpoenas, oaths, witnesses, evidence), and to the authorities specified at 34 U.S.C. 10226(b)–(d)''.

■ g. In paragraph (h)(2)(v), remove ''42 U.S.C. 3795a'' and add in its place ''34 U.S.C. 10272''.

■ h. In paragraph (i), remove ''public agency'' and add in its place ''public safety agency''.

■ i. Add paragraphs (j), (k), (l) and (m).

The additions read as follows:

§ 32.5 Evidence.

* * * * *

(j) Public safety activity that is performed by a law enforcement officer or a firefighter shall be presumed to satisfy the requirements of paragraph (1)(i)(A) or (1)(ii)(A) (as the case may be) of the definition of *Line of duty activity or action* in § 32.3 if the public safety activity—

(1) Was not forbidden (at the time performed) by any applicable statute, rule, regulation, condition of employment or service, official mutual-aid agreement, or other law; and

(2) Occurred—

(i) Within a jurisdiction where he is authorized to act, in the ordinary course, in an official capacity as such a law enforcement officer or firefighter; or

(ii) Within a jurisdiction (not described in the immediately-preceding paragraph) that, at the time the public safety activity was performed, had a statute, rule, regulation, official mutual-aid agreement, or other law, in effect that authorized law enforcement officers or firefighters from outside such jurisdiction to perform, within the jurisdiction, the activity that occurred.

(k) Absent evidence that the public safety activity was forbidden as described in paragraph (j)(1) of this section, the requirements of such paragraph (j) shall be presumed to be satisfied in any case in which full line-of-duty death or disability benefits (as the case may be) have been paid—

(1) By (or on behalf of) any jurisdiction described in paragraph (j)(2) of this section;

(2) With respect to a law enforcement officer or firefighter; and

(3) Upon an administrative or judicial determination in the ordinary course (other than pursuant to a settlement or quasi-settlement) that such law enforcement officer or firefighter sustained an injury in the line of duty that caused his death or disability.

(l) In the event that the presumption established by paragraph (j) of this section should arise pursuant to paragraph (j)(2)(ii) thereof, the law enforcement officer or firefighter shall be presumed to have been serving the jurisdiction described in such paragraph (j)(2)(ii) in an official capacity at the time he performed the public safety activity.

(m) A volunteer fire department that is legally licensed or-authorized to engage in fire suppression shall be presumed to satisfy the requirements of paragraphs (1)(ii) and (2)(iii) of the definition of *Instrumentality.*

■ 6. Amend § 32.6 as follows:

■ a. Revise paragraph (b).

■ b. In paragraph (d), remove ''42 U.S.C. 3796(m)'' and add in its place ''34 U.S.C. 10281(m)''.

■ c. Add paragraph (f).

The revision and addition read as follows:

§ 32.6 Payment and repayment.

* * * * *

(b) No payment shall be made, save pursuant to a claim, filed by (or on behalf of) the payee, that (except as provided in the Act, at 34 U.S.C. 10281(c)) has been approved in a final agency determination.

* * * * *

(f)(1) If the actual net payment of the Victim Compensation Fund after subtraction of any offset required by law (compensation) made under the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note) has been paid with respect to an injury, the total amount payable under subpart B or C of this part, with respect to the same injury, shall be reduced by the amount of such payment of compensation.

(2) Nothing in paragraph (f)(1) of this section, or in the Act, at 34 U.S.C. 10281(f)(3), shall be understood to preclude payment under this part before the final payment of compensation under such Fund.

(3) Nothing in the Act, at 34 U.S.C. 10281(f)(3), shall be understood to require reduction of any amount payable under subpart D of this part.

■ 7. Amend § 32.7 as follows:

■ a. In the first sentence of paragraph (a), remove ''claimant for representative services provided in connection with any claim may'' and add in its place ''claimant for representative services provided in connection with any matter under this part may''.

■ b. Revise the introductory text of paragraph (c).

■ c. Revise the introductory text of paragraph (d).

■ d. In the first sentence of paragraph (f), remove ''Upon its authorizing or not authorizing the payment of any amount under paragraph'' and add in its place ''Upon its approving (in whole or in part), or denying, a petition under paragraph''.

■ e. In the second sentence of paragraph (f), remove ''authorization'' and add in its place ''approval or denial''.

■ f. Add paragraph (h).

The revisions and addition read as follows:

§ 32.7 Fees for representative services.

* * * * *

(c) Unless the petition is approved pursuant to paragraph (h)(1) of this section (without regard to the exception thereto), consideration of a petition under paragraph (a) of this section shall be subject to paragraph (d) of this section and shall be based on the following factors:

* * * * *

(d) Unless the petition is approved pursuant to paragraph (h)(1) of this

section (without regard to the exception thereto), no amount in a petition under paragraph (a) of this section shall be approved for—

* * * * *

(h)(1) Except as provided in paragraph (h)(2) of this section, the PSOB Office shall approve any petition under paragraph (a) of this section for authorization to receive an amount that is not greater than the following, for representative services provided by an individual who was duly licensed to practice law in the jurisdiction in any State:

(i) In connection with a claim that is approved under subpart B or C, an amount equal to three percent of the benefit paid to (or with respect to) the claimant on whose behalf the representative services were provided;

(ii) In connection with a claim approved under subpart E that is subsequently approved under subpart F, an amount equal to six percent of the benefit paid to (or with respect to) the claimant on whose behalf the representative services were provided; and

(iii) In connection with a claim denied under subpart E that is subsequently approved under subpart F, an amount equal to nine percent of the benefit paid to (or with respect to) the claimant on whose behalf the representative services were provided.

(2) In the event that it decides that the amount set forth in paragraph (h)(1) of this section would be excessive (or otherwise inappropriate) for the representative services that form the substance of a particular petition under paragraph (a) of this section, the PSOB Office shall consider the petition pursuant to paragraph (c) of this section.

§ 32.11 [Amended]

■ 8. Amend § 32.11 as follows:

■ a. In paragraph (a), remove ''42 U.S.C. 3796(a)'' and add in its place ''34 U.S.C. 10281(a)''.

■ b. In paragraph (b), remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.

■ 9. Effective June 14, 2018, revise § 32.12 to read as follows:

§ 32.12 Time for filing claim.

(a) Unless, for good cause shown, the Director extends the time for filing, no claim shall be considered if it is filed with the PSOB Office after whichever of the following is latest:

(1) Three years after the public safety officer's death; or

(2) One year after the later of—

(i) A final determination of entitlement to receive, or of denial of, the benefits, if any, described in § 32.15(a)(1)(i); or

(ii) The receipt of the certification described in § 32.15(a)(1)(ii); or

(3) The end of the supporting-evidence collection period.

(b) Unless, for good cause shown, the Director extends the time for filing, no individual may file a notice of intention to file a claim after the later of—

(1) The period described in paragraph (a)(1) of this section; or

(2) The period described in paragraph (a)(2) of this section.

(c) In the event that a claim is filed that fails to identify and provide foundational evidence as to status and injury, the Director shall deny the claim for lack of that foundational evidence. Not less than thirty-three days prior to such denial, the PSOB Office shall serve the claimant with notice of the date on which the Director will deny for that lack of evidence. Upon the claimant's request, filed prior to the date specified for the denial, the Director shall, in lieu of the denial—

(1) Allow the claimant to withdraw his claim; and

(2) Deem (as of the date of the request to withdraw) the claimant to have filed a notice of intention to file a claim, if a notice of intention otherwise filed by the claimant on that date would be timely under paragraph (b) of this section.

(d) Notwithstanding paragraph (a) of this section, unless, for good cause shown, the Director extends the time for filing, no claim based on an injury sustained by a WTC responder and resulting from the September 11, 2001, attacks shall be considered if it is filed with the PSOB Office after the latest of—

(1) The time provided in paragraph (a) of this section;

(2) Two years after the earlier of—

(i) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(ii) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii); or

(3) June 14, 2020.

■ 10. Effective June 14, 2020, revise paragraph (d) of § 32.12 to read as follows:

§ 32.12 Time for filing claim.

* * * * *

(d) Notwithstanding paragraph (a) of this section, unless, for good cause shown, the Director extends the time for filing, no claim based on an injury sustained by a WTC responder and resulting from the September 11, 2001, attacks shall be considered if it is filed with the PSOB Office after the later of—

(1) The time provided in paragraph (a) of this section; or

(2) Two years after the earlier of—

(i) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(ii) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii).

■ 11. Amend § 32.13 as follows:

■ a. Remove the definition of *Beneficiary under the Act, at 42 U.S.C. 3796(a)(4)(A).*

■ b. Add definitions of *Beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A)* and *Competent medical evidence* in alphabetical order.

■ c. Remove the definition of *Competent medical evidence to the contrary.*

■ d. In the definition of *Designation on file,* remove ''42 U.S.C. 3796(a)(4)(A)'' and add in its place ''34 U.S.C. 10281(a)(4)(A)''.

■ e. In paragraph (2) of the definition of *Engagement in a situation involving law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity,* remove ''The public agency he serves'' and add in its place ''His public safety agency''.

■ f. In the definition of *Event,* remove ''42 U.S.C. 3796(k)(1)'' and add in its place ''34 U.S.C. 10281(k)(1)''.

■ g. Remove the definition of *Excessive consumption of alcohol.*

■ h. Add a definition of *Execution of a designation of beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A)* in alphabetical order.

■ i. Remove the definitions of *Extrinsic circumstances; Execution of a designation of beneficiary under the Act, at 42 U.S.C. 3796(a)(4)(A)* and *Most recently executed designation of beneficiary under the Act, at 42 U.S.C. 3796 (a)(4)(A).*

■ j. Add a definition of *Most recently executed designation of beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A)* in alphabetical order.

■ k. In the definitions of *Nonroutine strenuous physical activity* and *Nonroutine stressful physical activity,*

remove ''42 U.S.C. 3796(*l*)'' and add in its place ''34 U.S.C. 10281(*l*)''.

■ l. In paragraph (1) of the definition of *Participation in a training exercise,* remove ''public agency;'' and add in its place ''public safety agency;''.

■ m. Remove the definition of *Public safety agency, -organization, or-unit.*

■ n. Add a definition of *Public safety organization or unit* in alphabetical order.

■ o. Remove the definition of *Risky behavior.*

■ p. In paragraph (1) of the definition of *Routine,* remove ''public agency'' and add in its place ''public safety agency''.

■ q. Add definitions of *Something other than the mere presence of cardiovascular disease risk factors* and *Unrelated,* in alphabetical order.

■ r. Remove the definition of *Undertaking of treatment.*

The additions read as follows:

§ 32.13 Definitions.

* * * * *

Beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A)—An individual (living or deceased on the date of death of the public safety officer) is designated, by such officer (and as of such date), as beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A), only if the designation is, as of such date, legal and valid and unrevoked (by such officer or by operation of law) or otherwise unterminated, except that—

(1) Any designation of an individual (including any designation of the biological or adoptive offspring of such individual) made in contemplation of such individual's marriage (or purported marriage) to such officer shall be considered to be revoked by such officer as of such date of death if the marriage (or purported marriage) did not take place, unless preponderant evidence demonstrates that—

(i) It did not take place for reasons other than personal differences between the officer and the individual; or

(ii) No such revocation was intended by the officer; and

(2) Any designation of a spouse (or purported spouse) made in contemplation of or during such spouse's (or purported spouse's) marriage (or purported marriage) to such officer (including any designation of the biological or adoptive offspring of such spouse (or purported spouse)) shall be considered to be revoked by such officer as of such date of death if the spouse (or purported spouse) is divorced from such officer subsequent to the date of designation and before such date of death, unless preponderant evidence demonstrates that no such revocation was intended by the officer.

* * * * *

Competent medical evidence means evidence that indicates a fact to a degree of medical probability.

* * * * *

Execution of a designation of beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A) means the legal and valid execution, by the public safety officer, of a writing that, designating a beneficiary, expressly, specifically, or unmistakably refers to—

(1) The Act (or the program it creates); or

(2) All the death benefits with respect to which such officer lawfully could designate a beneficiary (if there be no writing that satisfies paragraph (1) of this definition).

* * * * *

Most recently executed designation of beneficiary under the Act, at 34 U.S.C. 10281(a)(4)(A) means the most recently executed such designation that, as of the date of death of the public safety officer, designates a beneficiary.

* * * * *

Public safety organization or unit means—

(1) The component of a public agency, in which component—

(i) An individual described in the Act, at 34 U.S.C. 10284(9)(A), serves in an official capacity; or

(ii) An employee described in the Act, at 34 U.S.C. 10284(9)(B) or (C) performs official duties; or

(2) The component of an agency or entity, under the authority (or by the license) of which component a member of a rescue squad or ambulance crew engages in activity (or in the provision of services) described in the Act, at 34 U.S.C. 10284(9)(D).

* * * * *

Something other than the mere presence of cardiovascular disease risk factors means—

(1) Ingestion of controlled substances included on Schedule I of the drug control and enforcement laws (see 21 U.S.C. 812(a)); or

(2) Abuse of controlled substances included on Schedule II, III, IV, or V of the drug control and enforcement laws (see 21 U.S.C. 812(a)).

* * * * *

Unrelated — A public safety officer's heart attack, stroke, or vascular rupture is unrelated to the officer's engagement in a situation or participation in a training exercise, when an independent event or occurrence is a substantial contributing factor in bringing the officer's heart attack, stroke, or vascular rupture about.

■ 12. Amend § 32.14 as follows:

■ a. Revise paragraph (a).

■ b. In paragraph (b), remove ''abandoned.'' and add in its place ''abandoned, as though never filed.''

■ c. Remove paragraph (c).

The revision reads as follows:

§ 32.14 PSOB Office determination.

(a) Upon its approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer). Such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) In the event of a denial, provide information as to requesting a Hearing Officer determination.

* * * * *

§ 32.15 [Amended]

■ 13. Amend § 32.15 as follows:

■ a. In paragraph (a) introductory text, remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.

■ b. In paragraph (a)(1) introductory text, remove ''the public agency in which the public safety officer served'' and add in its place ''the public safety officer's public safety agency''.

■ c. In paragraph (a)(2), add ''(or public safety agency)'' after ''public agency''.

■ d. In paragraph (b), remove ''public agency that legally is authorized to pay death benefits with respect to the agency described in that paragraph.'' and add in its place ''public agency (or public safety agency) that legally is authorized to pay death benefits with respect to the agency described in such paragraph (a)(1).''.

■ e. In paragraph (c)(1), add '', and every public safety agency,'' before ''that''.

■ f. In paragraph (c)(2), add '', or public safety agency,'' before ''legally''.

■ g. In paragraph (d) introductory text, remove ''42 U.S.C. 3796(k), are satisfied with respect to a particular public safety officer's death, and that no circumstance specified in the Act, at 42 U.S.C. 3796a(1),'' and add in its place ''34 U.S.C. 10281(k), are satisfied with respect to a particular public safety officer's death, and that no circumstance specified in the Act, at 34 U.S.C. 10282(a)(1),''.

■ h. In paragraph (d)(2)(i), add ''(or public safety agency's)'' before ''understanding''.

■ i. In paragraph (d)(2)(ii), add ''(or public safety agency)'' before ''is''.

§ 32.16 [Amended]

■ 14. Remove paragraph (c) of § 32.16.

§ 32.21 [Amended]

■ 15. Amend § 32.21 as follows:

■ a. In paragraph (a), remove ''42 U.S.C. 3796(b)'' and add in its place ''34 U.S.C. 10281(b)''.
■ b. In paragraph (b), remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.

■ 16. Effective June 14, 2018, revise § 32.22 to read as follows:

§ 32.22 Time for filing claim.

(a) Unless, for good cause shown, the Director extends the time for filing, no claim shall be considered if it is filed with the PSOB Office after the later of—

(1) Three years after the injury date; or

(2) One year after the later of—

(i) A final determination of entitlement to receive, or of denial of, the benefits, if any, described in § 32.25(a)(1)(i); or

(ii) The receipt of the certification described in § 32.25(a)(1)(ii); or

(3) The end of the supporting-evidence collection period.

(b) Unless, for good cause shown, the Director extends the time for filing, no individual may file a notice of intention to file a claim after the later of—

(1) The period described in paragraph (a)(1) of this section; or

(2) The period described in paragraph (a)(2) of this section.

(c) In the event that a claim is filed that fails to identify and provide foundational evidence as to status and injury, the Director shall deny the claim for lack of that foundational evidence. Not less than thirty-three days prior to such denial, the PSOB Office shall serve the claimant with notice of the date on which the Director will deny for that lack of evidence. Upon the claimant's request, filed prior to the date specified for the denial, the Director shall, in lieu of the denial—

(1) Allow the claimant to withdraw his claim; and

(2) Deem (as of the date of the request to withdraw) the claimant to have filed a notice of intention to file a claim, if a notice of intention otherwise filed by the claimant on that date would be timely under paragraph (b) of this section.

(d) Notwithstanding paragraph (a) of this section, unless, for good cause shown, the Director extends the time for filing, no claim based on an injury sustained by a WTC responder and resulting from the September 11, 2001, attacks shall be considered if it is filed with the PSOB Office after the latest of—

(1) The time provided in paragraph (a) of this section;

(2) Two years after the earlier of—

(i) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(ii) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii); or

(3) June 14, 2020.

■ 17. Effective June 14, 2020, revise paragraph (d) of § 32.22 to read as follows:

§ 32.22 Time for filing claim.

* * * * *

(d) Notwithstanding paragraph (a) of this section, unless, for good cause shown, the Director extends the time for filing, no claim based on an injury sustained by a WTC responder and resulting from the September 11, 2001, attacks shall be considered if it is filed with the PSOB Office after the later of—

(1) The time provided in paragraph (a) of this section; or

(2) Two years after the earlier of—

(i) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(ii) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii).

■ 18. Amend § 32.24 as follows:
■ a. Revise paragraph (a).
■ b. In paragraph (b), remove ''abandoned.'' and add in its place ''abandoned, as though never filed.''

The revision reads as follows:

§ 32.24 PSOB Office determination.

(a) Upon its approving or denying a claim, the PSOB Office shall serve notice of the same upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer). Such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) In the event of a denial, provide information as to—

(i) Requesting a Hearing Officer determination; or

(ii) As applicable, moving to reconsider a negative disability finding.

* * * * *

§ 32.25 [Amended]

■ 19. Amend § 32.25 as follows:
■ a. In paragraph (a) introductory text, remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.
■ b. In paragraph (a)(1) introductory text, remove ''the public agency in which the public safety officer served'' and add in its place ''the public safety officer's public safety agency''.
■ c. In paragraph (a)(2)(ii), remove ''made by any public agency'' and add in its place ''or findings made by any public agency (or public safety agency)''.
■ d. In paragraph (b), add ''(or public safety agency)'' after ''public agency''.
■ e. In paragraph (c)(1), add '', and every public safety agency,'' before ''that''.
■ f. In paragraph (c)(2), add '', or public safety agency,'' before ''legally''.

§ 32.26 [Removed and reserved]

■ 20. Remove and reserve § 32.26.

§ 32.31 [Amended]

■ 21. In § 32.31, remove ''42 U.S.C. 3796d–1.'' and add in its place ''34 U.S.C. 10302.''.

§ 32.32 [Amended]

■ 22. Amend § 32.32 as follows:
■ a. In paragraph (a), remove ''42 U.S.C. 3796d–1(c),'' and add in its place ''34 U.S.C. 10302(c),''.
■ b. In paragraph (c), remove ''nonphysical'' and add in its place ''non-physical''.

■ 23. Amend § 32.33 as follows:
■ a. Remove the definitions of *Dependent* and *Eligible dependent.*
■ b. Revise the definition of *Eligible public safety officer.*
■ c. In the definition of *Financial assistance,* remove ''42 U.S.C. 3796d–1'' and add in its place ''34 U.S.C. 10302''.
■ d. In paragraph (1) of the definition of *Financial need,* remove ''42 U.S.C. 3796d–1(a)(3)(A)'' and add in its place ''34 U.S.C. 10302(a)(3)''.
■ e. Remove the definitions of *Public safety agency* and *Tax year.*

The revision reads as follows:

§ 32.33 Definitions.

* * * * *

Eligible public safety officer means a public safety officer—

(1) With respect to whose death, benefits under subpart B of this part properly—

(i) Have been paid; or

(ii) Would have been paid but for operation of the Act, at 34 U.S.C. 10281(f); or

(2) With respect to whose disability, benefits under subpart C of this part properly—

(i) Have been paid; or

(ii) Would have been paid, but for operation of—

(A) Paragraph (b) of § 32.6; or

(B) The Act, at 34 U.S.C. 10281(f).

* * * * *

§ 32.34 [Amended]

■ 24. In paragraph (c) of § 32.34, remove ''abandoned.'' and add in its place ''abandoned, as though never filed.''

§ 32.36 [Amended]

■ 25. In paragraph (a) of § 32.36, remove ''42 U.S.C. 3796d–1(a)(2),'' and add in its place ''34 U.S.C. 10302(a)(2),''.

§ 32.43 [Amended]

■ 26. In paragraph (a) of § 32.43, remove ''42 U.S.C. 3787'' and add in its place ''34 U.S.C. 10225''.

■ 27. Revise paragraph (b) of § 32.44 to read as follows:

§ 32.44 Hearing Officer determination.

* * * * *

(b) Upon a Hearing Officer's approving or denying a claim, the PSOB Office shall serve notice of the same simultaneously upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer). Such notice shall—

(1) Specify the Hearing Officer's factual findings and legal conclusions that support it; and

(2) In the event of a denial, provide information as to Director appeals.

* * * * *

■ 28. Amend § 32.45 as follows:

■ a. In paragraph (d)(1), remove ''; and''.

■ b. In paragraph (d)(2), remove the period and add in its place ''; and''.

■ c. Add paragraph (d)(3).

The addition reads as follows:

§ 32.45 Hearings.

* * * * *

(d) * * *

(3) Shall (unless the Director should direct or allow otherwise) be the only individual (other than the claimant's representative, if any) who may examine the claimant.

* * * * *

§ 32.51 [Amended]

■ 29. In § 32.51, remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.

§ 32.52 [Amended]

■ 30. In paragraph (b) of § 32.52, remove ''nonphysical'' and add in its place ''non-physical''.

■ 31. Effective June 14, 2018, amend § 32.53 as follows:

■ a. In paragraph (b)(2), remove ''42 U.S.C. 3796c–1'' and add in its place ''34 U.S.C. 10286''.

■ b. Add paragraph (d).

The addition reads as follows:

§ 32.53 Review.

* * * * *

(d) The Director may reconsider a claim under subparts B or C of this part that has been denied in a final agency determination if—

(1) The public safety officer was a WTC responder;

(2) The claim was based on the allegation that—

(i) The WTC responder sustained an injury that was the direct and proximate cause of his death or of his permanent and total disability; and

(ii) The WTC responder's injury was sustained in the course of performance of line of duty activity or a line of duty action that exposed him to airborne toxins, other hazards, or other adverse conditions resulting from the September 11, 2001, attacks;

(3) The sole ground of the denial was that the claim did not establish that—

(i) The WTC responder sustained an injury in the course of performance of line of duty activity or a line of duty action; or

(ii) The injury allegedly sustained by the WTC responder was the direct and proximate cause of his death or permanent and total disability;

(4) The alleged injury on which the claim was based is a WTC-related health condition; and

(5) The claimant files with the PSOB Office a motion for such reconsideration before the later of—

(i) Two years after the earlier of—

(A) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(B) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, under (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii); or

(ii) June 14, 2020.

■ 32. Effective June 14, 2020, revise paragraph (d)(5) of § 32.53, to read as follows:

§ 32.53 Review.

* * * * *

(d) * * *

(5) The claimant files with the PSOB Office a motion for such reconsideration before the earlier of two year—

(i) The date on which the WTC-related physical health condition, if any, is determined by the September 11th Victim Compensation Fund, for the WTC responder, to meet the definition at section 104.2(i) of this title (as in effect on January 17, 2017); or

(ii) The date on which the WTC-related health condition, if any, is certified, for the WTC responder, (as applicable) 42 U.S.C. 300mm–22(b)(1)(B)(ii) or 42 U.S.C. 300mm–22(b)(2)(A)(ii).

■ 33. Amend § 32.54 as follows:

■ a. Revise paragraph (a).

■ b. In paragraph (c) introductory text, remove ''may—'' and add in its place ''may (among other things)—''.

The revision reads as follows:

§ 32.54 Director determination.

(a) Upon the Director's approving or denying a claim, the PSOB Office shall serve notice of the same simultaneously upon the claimant (and upon any other claimant who may have filed a claim with respect to the same public safety officer), and upon any Hearing Officer who made a determination with respect to the claim. Such notice shall—

(1) Specify the factual findings and legal conclusions that support it; and

(2) In the event of a denial, provide information as to judicial appeals.

* * * * *

■ 34. Revise § 32.55 to read as follows:

§ 32.55 Judicial appeal.

Consistent with § 32.8, no administrative action other than an approval or denial described in § 32.54(a) shall constitute a final agency determination for purposes of the Act, at 34 U.S.C. 10287.

Dated May 2, 2018.

Alan R. Hanson,

Principal Deputy Assistant Attorney General.

[FR Doc. 2018–09640 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–18–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4022

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

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Benefits Payable in Terminated Single-Employer Plans to prescribe interest assumptions under the regulation for valuation dates in June 2018. The interest assumptions are used for paying benefits under

terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective June 1, 2018.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400 ext. 3839. (TTY users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400, ext. 3839.)

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

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

The interest assumptions are intended to reflect current conditions in the financial and annuity markets. Assumptions under the benefit payments regulation are updated monthly. This final rule updates the benefit payments interest assumptions for June 2018.[1]

The June 2018 interest assumptions under the benefit payments regulation will be 1.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. In comparison with the interest assumptions in effect for May 2018, these assumptions represent an increase of 0.25 percent in the immediate rate and are otherwise unchanged.

PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect current market conditions as accurately as possible.

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

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

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

List of Subjects in 29 CFR Part 4022

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

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

PART 4022—BENEFITS PAYABLE IN TERMINATED SINGLE-EMPLOYER PLANS

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

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

■ 2. In appendix B to part 4022, Rate Set 296 is added at the end of the table to read as follows:

Appendix B to Part 4022—Lump Sum Interest Rates for PBGC Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
296	6–1–18	7–1–18	1.25	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 296 is added at the end of the table to read as follows:

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

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*	*	*	*	*	
296	6–1–18	7–1–18	1.25	4.00	4.00	4.00	7	8

[1] Appendix B to PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes interest assumptions for valuing benefits under terminating covered single-employer plans for purposes of allocation of assets under ERISA section 4044. Those assumptions are updated quarterly.

Issued in Washington, DC.

Hilary Duke,

Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–10038 Filed 5–14–18; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2018–0276]

2018 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notification of expired temporary rules issued.

SUMMARY: This document provides notification of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between January 2018 and March 2018, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

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

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

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

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between January 2018 and March 2018 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the following table.

Docket No.	Type	Location	Effective date
USCG–2012–1036.	Safety Zones	Long island Sound Zone	11/25/2017
USCG–2017–1103.	Safety Zones	Sandusky, OH	12/31/2017
USCG–2018–0001.	Safety Zones	Bellaire, OH	1/6/2018
USCG–2018–0021.	Safety Zones	Palm Beach, FL	1/11/2018
USGC–2018–0018.	Security Zones	Palm Beach, FL	1/12/2018
USCG–2017–1088.	Security Zones	Detroit, MI	1/13/2018
USCG–2017–1096.	Safety Zones	Piti, GU	1/17/2018
USCG–2018–0053.	Safety Zones	Thebes, IL	1/18/2018
USCG–2017–1110.	Safety Zones	Harbor, GU	1/24/2018
USCG–2018–0062.	Special Local Regulations	New York Zone	1/26/2018
USCG–2017–1029.	Special Local Regulations	San Diego Captain of the Port	1/27/2018

Docket No.	Type	Location	Effective date
USCG–2018–0073.	Security Zones	Palm Beach, FL	2/2/2018
USCG–2018–0035.	Security Zones	Pittsburgh, PA	2/2/2018
USCG–2018–0058.	Safety Zones	San Francisco, CA	2/3/2018
USCG–2018–0008.	Safety Zones	Mobile, AL	2/3/2018
USCG–2018–0115.	Safety Zones	Delaware Bay	2/6/2018
USCG–2018–0116.	Drawbridges	Sparrows point, MD	2/13/2018
USCG–2017–1024.	Safety Zones	Virgin Island, U.S.	2/15/2018
USCG–2018–0149.	Security Zones	Palm Beach, FL	2/15/2018
USCG–2018–0040.	Safety Zones	Letart, WV	2/17/2018
USCG–2018–0159.	Safety Zones	Miami, FL	2/23/2018
USCG–2018–0166.	Security Zones	Palm Beach, FL	3/2/2018
USCG–2018–0012.	Special Local Regulations	Tuscaloosa, AL	3/3/2018
USCG–2018–0213.	Safety Zones	New York, NY	3/3/2018
USCG–2018–0204.	Safety Zones	Blackslough Landing, CA	3/22/2018
USCG–2018–0155.	Special Local Regulations	Oak Ridge, TN	3/23/2018
USCG–2018–0247.	Security Zones	Palm Beach, FL	3/23/2018
USCG–2018–0024.	Safety Zones	Wilmington, NC	3/26/2018

Dated: May 9, 2018.

Katia Kroutil,

Office Chief, Office of Regulations and Administrative Law, United States Coast Guard.

[FR Doc. 2018–10308 Filed 5–14–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2018–0434]

Drawbridge Operation Regulation; Georgiana Slough, Walnut Grove, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Sacramento County highway bridge across Georgiana Slough, mile 12.4, near Walnut Grove, CA. The deviation is necessary to allow participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 11 a.m. through 3 p.m. on May 17, 2018.

ADDRESSES: The docket for this deviation, USCG–2018–0434, is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Carl T. Hausner, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *Carl.T.Hausner@uscg.mil*.

SUPPLEMENTARY INFORMATION: Sacramento County has requested a temporary change to the operation of the Sacramento County highway bridge, mile 12.4, over Georgiana Slough, near Walnut Grove, CA. The drawbridge navigation span provides a vertical clearance of 14 feet above Mean High Water in the closed-to-navigation position. The draw operates as required by 33 CFR 117.157. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position from 11 a.m. through 3 p.m. on May 17, 2018, to allow the participants in the AMGEN Tour of California bicycle race to cross the drawspan safely and without interruption. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: May 9, 2018.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2018–10243 Filed 5–14–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0396]

Security Zone; Portland Rose Festival on Willamette River

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the security zone for the Portland Rose Festival on the Willamette River in Portland, OR, from 8 a.m. on June 6, 2018, through 4 p.m. on June 11, 2018. This action is necessary to ensure the security of vessels participating in the 2018 Portland Rose Festival on the Willamette River during the event. Our regulation for the Security Zone Portland Rose Festival on the Willamette River identifies the regulated area. During the enforcement period, no person or vessel may enter or remain in the security zone without permission from the Sector Columbia River Captain of the Port.

DATES: The regulations in 33 CFR 165.1312 will be enforced from 8 a.m. on June 6, 2018, through 4 p.m. on June 11, 2018.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email LCDR Laura Springer, Waterways Management Division, MSU Portland, Oregon, Coast Guard; telephone 503–240–9319, email *MSUPDXWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the security zone for the Portland Rose Festival detailed in 33 CFR 165.1312 from 8 a.m. on June 6, 2018, through 4 p.m. on June 11, 2018. This action is necessary to ensure the security of vessels participating in the 2018 Portland Rose Festival on the Willamette River during the event. Under the provisions of 33 CFR 165.1312 and subpart D of part 165, no person or vessel may enter or remain in the security zone, consisting of all waters of the Willamette River, from surface to bottom, encompassed by the Hawthorne and Steel Bridges, without permission from the Sector Columbia River Captain of the Port. Persons or vessels wishing to enter the security zone may request permission to do so from the on-scene Captain of the Port representative via VHF Channel 16 or 13. The Coast Guard may be assisted by other Federal, State, or local enforcement agencies in enforcing this regulation.

This notice of enforcement is issued under authority 33 CFR 165.1312 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts.

Dated: May 2, 2018.

D.F. Berliner,

Captain, U.S. Coast Guard, Acting Captain of the Port, Sector Columbia River.

[FR Doc. 2018–10283 Filed 5–14–18; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 16–408; FCC 17–122]

Updates Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications 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 Report and Order updating, clarifying and streamlining the Commission's rules governing non-geostationary satellite orbit, fixed-satellite service systems to better reflect current technology and promote additional operational flexibility.

DATES: The amendments to §§ 25.114, 25.115, 25.146, and 25.164, published December 18, 2017, at 82 FR 59972, are effective May 31, 2018. The incorporation by reference of certain publications listed in the rule for § 25.146 is approved by the Director of the **Federal Register** as of May 31, 2018.

FOR FURTHER INFORMATION CONTACT: Cathy Williams, *Cathy.Williams@fcc.gov,* 202–418–2918.

SUPPLEMENTARY INFORMATION: On May 1, 2018, OMB approved the information collection requirements contained in the Commission's Report and Order, FCC 17–122, published at 82 FR 59972, December 18, 2017. The OMB Control Number is 3060–0678. Accordingly, the effective date of the amendments to §§ 25.114, 25.115, 25.146, and 25.164 is May 31, 2018. The other rule amendments adopted in the Report and Order, which did not require OMB approval, became effective on January 17, 2018.

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 contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060–0678, in your correspondence. The Commission will also accept your comments via the internet if you send them to *PRA@fcc.gov.* 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 Commission is notifying the public that it received OMB approval on May 1, 2018, for the new information collection requirements contained in the Commission's rules at 47 CFR 25.114, 25.115, 25.146, and 25.164.

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 3060–0678.

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: 3060–0678.

OMB Approval Date: May 1, 2018.

OMB Expiration Date: May 31, 2021.

Title: Part 25 of the Federal Communications Commission's Rules: Governing the Licensing of, and Spectrum Usage by, Commercial Earth Stations and Space Stations.

Form Nos.: FCC Form 312; Schedule A; Schedule B; Schedule S; FCC Form 312–EZ; FCC Form 312–R.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 5,036 respondents; 5,094 responses.

Estimated Time per Response: 0.5 to 80 hours per response.

Frequency of Response: On occasion, one time, and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 35,622 hours.

Total Annual Cost: $12,411,120.

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information. Certain information collected regarding international coordination of satellite systems is not routinely available for public inspection pursuant to 5 U.S.C. 552(b) and 47 CFR 0.457(d)(1)(vii).

Privacy Impact Assessment: No impact(s).

Needs and Uses: On September 27, 2017, the Commission released a Report and Order, FCC 17–122, titled, ''Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters.'' In this Report and Order, the Commission updated and streamlined its rules governing satellite constellations that operate in the fixed-satellite service. Many of the amendments are substantive changes intended to give licensees greater operational flexibility. At the same time, however, many more applications for non-geostationary, fixed-satellite service systems have been filed, increasing the overall information collection burden. The information collection requirements in this collection are needed to determine the technical, legal, and other qualifications of applicants and licensees to operate a radio station and to determine whether grant of an authorization serves the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide communications services in the United States. Therefore, the Commission would not be able to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the World Trade Organization Basic Telecom Agreement.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–10335 Filed 5–14–18; 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–2016–0130; FXES11130900000–178–FF09E42000]

RIN 1018–BB90

Endangered and Threatened Wildlife and Plants; Reclassifying Tobusch Fishhook Cactus From Endangered to Threatened and Adopting a New Scientific Name

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), reclassify Tobusch fishhook cactus (*Sclerocactus brevihamatus* ssp. *tobuschii;* currently listed as *Ancistrocactus tobuschii*), from endangered to threatened on the Federal List of Endangered and Threatened Plants. 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 is no longer in danger of extinction throughout all or a significant portion of its range, but it remains threatened with becoming endangered within the foreseeable future. In addition, we accept the new taxonomic classification for Tobusch fishhook cactus as the subspecies *Sclerocactus brevihamatus* ssp. *tobuschii.*

DATES: This rule becomes effective June 14, 2018.

ADDRESSES: This final rule is available on the internet at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2016–0130 and the Service's websites at *http://www.fws.gov/southwest/es/AustinTexas/ESA_Species_news.html* and *http://www.fws.gov/endangered.* Comments and materials received, as well as supporting documentation used in the preparation of this rule, are available for public inspection, by appointment, during normal business hours at: U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, TX 78727; telephone 512–490–0057; facsimile 512–490–0974. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

FOR FURTHER INFORMATION CONTACT: Adam Zerrenner, Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **ADDRESSES**) telephone 512–490–0057, or by facsimile 512–490–0974. Individuals who are hearing impaired or speech-impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Background

Under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), 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 Tobusch fishhook cactus is no longer in danger of extinction throughout all or a signification portion of its range; however, the subspecies is likely to become endangered within the foreseeable future as a result of changes in vegetation and wildfire frequency (Factor A), insect parasites and feral hog rooting (Factor C), and the demographic and genetic consequences of small population sizes and densities (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 received during the public comment period.

This rule finalizes the reclassification of Tobusch fishhook cactus from an endangered to a threatened species, and adopts the latest taxonomic assignment of the scientific name, changing it from *Ancistrocactus tobuschii* to *Sclerocactus brevihamatus* ssp. *tobuschii* on the Federal List of Endangered and Threatened Plants.

Previous Federal Actions

We published a final rule to list Tobusch fishhook cactus as an endangered species under the Act on November 7, 1979 (44 FR 64736). At that time, we also determined that it was not prudent to designate critical habitat. On March 18, 1987, we finalized a recovery plan for Tobusch fishhook cactus. On January 5, 2010, a status review (''5-year review'') was completed under section 4(c)(2)(A) of the Act, which recommended that Tobusch fishhook cactus be reclassified from endangered to threatened (Service 2010).

On July 16, 2012, we received a petition dated July 11, 2012, from The Pacific Legal Foundation, Jim Chilton, the New Mexico Cattle Growers' Association, New Mexico Farm & Livestock Bureau, New Mexico Federal Lands Council, and Texas Farm Bureau requesting that Tobusch fishhook cactus be reclassified as threatened based on the analysis and recommendation contained in the 5-year review. The Service published a 90-day finding on September 9, 2013 (78 FR 55046), that the petition contained substantial scientific or commercial information indicating that the petitioned action may be warranted. 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 & Livestock Bureau, New Mexico Federal Lands Council, and Texas Farm Bureau to compel the Service to make a 12-month finding on the petition. On December 29, 2016, the Service published a combined 12-month warranted finding and proposed rule to reclassify Tobusch fishhook cactus from endangered to threatened (81 FR 95932).

Summary of Biological Status and Threats

We prepared a Species Status Assessment (SSA) for Tobusch fishhook cactus (Service 2016; available at *http://www.regulations.gov* and *http://www.fws.gov/southwest/es/AustinTexas/ESA_Species_news.html*), which includes a thorough review of the subspecies' taxonomy, natural history, habitats, ecology, populations, and range. We used the best available scientific and commercial data to analyze individual, population, and subspecies requirements, as well as factors affecting the subspecies' survival and its current conditions, to assess the current and future viability of Tobusch fishhook cactus in terms of resilience, redundancy, and representation. We solicited peer review of the draft SSA Report from three objective and independent scientific experts, and considered their comments in finalization of the SSA Report. The following is a summary of our results and conclusions. Please refer to section IV of the SSA Report for a more detailed discussion of the factors affecting Tobusch fishhook cactus (Service 2016, pp. 38–46).

Description

Tobusch fishhook cactus is a rare, endemic plant of the Edwards Plateau of central Texas that is armed with curved ''fishhook'' spines. In the wild, this globose or columnar cactus rarely exceeds 5 centimeters (2 inches) in diameter and in height (Poole and Janssen 2002, p. 7).

Classification

The taxonomic classifications of Tobusch fishhook cactus include several published synonyms. We listed it as a species, *Ancistrocactus tobuschii* (44 FR 64736, November 7, 1979), and retained this classification for the recovery plan (Service 1987). However, recent phylogenetic evidence supports classifying Tobusch fishhook cactus as subspecies *tobuschii* of *Sclerocactus brevihamatus* (Porter and Prince 2011, pp. 40–47). It is distinguished morphologically from its closest relative, *S. brevihamatus* ssp. *brevihamatus,* on the basis of yellow versus pink- or brown-tinged flowers, fewer radial spines, and fewer ribs (Marshall 1952, p. 79; Poole et al. 2007, p. 442; Porter and Prince 2011, pp. 42–45). Additionally, *S. brevihamatus* ssp. *tobuschii* is endemic to limestone outcrops of the Edwards Plateau, while *S. brevihamatus* ssp. *brevihamatus* occurs in alluvial soils in the Tamaulipan Shrublands and Chihuahuan Desert. A recent investigation confirmed genetic divergence between the two subspecies, although they may interact genetically in a narrow area where their ranges overlap (Rayamajhi 2015, pp. 67, 98; Sharma 2015, p. 1). We officially accept the new scientific name of Tobusch fishhook cactus as *Sclerocactus brevihamatus* ssp. *tobuschii.*

Reproduction

Tobusch fishhook cactus grows slowly, reaching a reproductive size of about 2 centimeters (0.8 inches) in diameter after 9 years (Emmett 1995, pp. 168–169). It flowers between late January and mid-March, and its major pollinators are honey bees and halictid bees (Emmett 1995, pp. 74–75; Lockwood 1995, pp. 428–430; Reemts and Becraft 2013, pp. 6–7; Langley 2015, pp. 21–23). The breeding system is primarily out-crossing, requiring fertilization between unrelated individuals; relatively few viable seeds are produced from self-fertilized flowers (Emmett 1995, p. 70; Langley 2015, pp. 24–28). Reproductive individuals produce an average of 112 seeds per year (Emmett 1995, p. 108). Ants may be seed predators, dispersers, or both (Emmett 1995, pp. 112–114, 124). Mammals or birds may also accomplish longer distance seed dispersal (Emmett 1995, pp. 115–116, 126). There is little evidence that seeds persist in the soil (Emmett 1995, pp. 120–122).

Habitats

When listed as endangered in 1979, fewer than 200 individuals of Tobusch fishhook cactus were known from 4 riparian sites, 2 of which had been destroyed by floods (44 FR 64736, November 7, 1979; Service 1987, pp. 4–5). We now understand that those riparian habitats were atypical; the great majority of populations that have now been documented occur in upland sites dominated by Ashe juniper-live oak woodlands and savannas on the Edwards Plateau (Poole and Janssen 2002, p. 2). Soils are classified in the Tarrant, Ector, Eckrant, and similar series. Within a matrix of woodland and savanna, the subspecies occurs in discontinuous patches of very shallow, gravelly soils where bare rock and rock fragments comprise a large proportion of the surface cover (Sutton et al. 1997, pp. 442–443). Associated vegetation includes small bunch grasses and forbs. The subspecies' distribution within habitat patches is clumped and tends to be farther from woody plant cover (Reemts 2014, pp. 9–10). The presence of cryptograms, primitive plants that reproduce by spores rather than seeds, may be a useful indicator of fine-scale habitat suitability (Service 2010, p. 17). Wildfire (including prescribed burning) causes negligible damage to Tobusch fishhook cactus populations (Emmett 1995, p. 42; Poole and Birnbaum 2003, p. 12). The subspecies probably does not require fire for germination, establishment, or reproduction, but periodic burning may be necessary to prevent the encroachment of woody plants into its habitats.

Populations and Range

A population of an organism is a group of individuals within a geographic area that are capable of interbreeding or interacting. Although

the term is conceptually simple, it may be difficult to determine the extent of a population of rare or cryptic species, and this is certainly the case for Tobusch fishhook cactus. Thorough surveys on public lands, such as State parks and highway rights-of-way, have detected groups of individuals, but since the vast majority of the surrounding private land has not been surveyed, we do not know if these are small, isolated populations, or parts of larger interacting populations or metapopulations. In instances where we are unable to define the extent of the local population, we often informally use the terms ''site,'' referring to a place where the subspecies was found, and ''colony,'' referring to a cluster of individuals.

Populations of Tobusch fishhook cactus are now confirmed in eight central Texas counties: Bandera, Edwards, Kerr, Kimble, Kinney, Real, Uvalde, and Val Verde. The Texas Native Diversity Database (2016, pp. 1–202) listed 97 element occurrences, areas in which the plant was present (EOs; NatureServe 2002, p. 10), of Tobusch fishhook cactus, totaling 3,336 individuals. In addition, recent surveys conducted through Section 7 consultations and at preserves managed by The Nature Conservancy, that are not included in the TXNDD report, bring the total number of documented individuals to approximately 4,500. Although the numbers of individuals at each site fluctuate over time, due to the combined, continuing effects of mortality and recruitment of new individuals, our best estimate of the total live individuals at all documented sites at any one time is 4,500.

Summary of Subspecies Requirements

Tobusch fishhook cactus plants occur in patches of very shallow, rocky soil overlying limestone. The immediate vicinity of plants is sparsely vegetated with small bunch grasses and forbs and there is little or no woody plant cover. Individual plants require an estimated 9 years to reach a reproductive size of about 2 centimeters (0.8 inches) in diameter. Reproduction is primarily by out-crossing between unrelated individuals, and the known pollinators include honey bees and halictid bees. Out-crossing requires genetically diverse cactus populations within the foraging range of pollinators, and is less likely to occur in small, isolated populations. Healthy pollinator populations, in turn, require intact, diverse, native plant communities. Halictid bees are frequent natural pollinators of Tobusch fishhook cactus. We expect the foraging range of these bees, given their relatively small size, to be fairly limited. Therefore, the health and diversity of native vegetation within the vicinity of Tobusch fishhook cactus plants (a range of 50 to 500 meters (164 to 1,640 feet)) may be particularly important for successful cactus reproduction. Healthy pollinator populations also require the least possible exposure to agricultural pesticides within their foraging ranges.

Resilient populations are those that exhibit stable or increasing demographic trends. The assessment of demographic trends, however, depends on how populations are delineated (81 FR 95932, December 29, 2016). For Tobusch fishhook cactus, we conclude that it is more appropriate to track the collective populations of multiple colonies that interact on a landscape scale (*i.e.,* metapopulations). Resilience of metapopulations requires recruitment of new colonies and/or reestablishment at sites of former colonies that previously collapsed. A major cause of mortality is infestation by insect larvae, mainly by an undescribed species of *Gerstaeckeria* (cactus weevil), and one or more species of cactus longhorn beetles (*Moneilema* spp.). The adults of these parasites are flightless, so their dispersal to new colonies is likely to be very limited. When individual colonies of the cactus die off, the parasites also die off, rendering those patches of suitable habitat available for cactus re-colonization. Hence, these periodic infestations of parasite larvae greatly influence the population dynamics of Tobusch fishhook cactus. The distance between colonies has two opposing effects on their persistence. Greater distance reduces susceptibility to parasite infestation, but also reduces the amount of gene flow, by means of pollinators vectoring pollen, or through seed dispersal, between colonies. Thus, the persistence of entire metapopulations would require fairly large landscapes where discontinuous patches of suitable habitat are distributed and populated at a density just low enough to hold the parasites at bay, but just high enough for halictid bees and other pollinators and seed dispersers to vector genes between them.

One measure of population resilience is minimum viable population (MVP), which is an estimate of the minimum population size that has a high probability of enduring a specified period of time. Poole and Birnbaum (2003, p. 1) estimated an MVP of 1,200 individuals for Tobusch fishhook cactus, using a surrogate species approach (Pavlik 1996, pp. 136–137). Although some Tobusch fishhook cactus individuals live for decades, annual mortality rates are often greater than 20 percent, and relatively few individuals live long enough to reproduce. Mortality within monitored colonies often exceeds recruitment, and some colonies have died out. Nevertheless, even where individual colonies have collapsed, the total documented population sizes at many protected natural areas are stable or increasing, due to discoveries of new individuals and colonies. For this reason, MVP levels are more appropriately applied to metapopulations rather than individual colonies of this cactus.

The degree of genetic diversity within Tobusch fishhook cactus populations is important for several reasons. First, diversity within populations should confer greater resistance to pathogens and parasites and greater adaptability to environmental stochasticity (random variations, such as annual rainfall and temperature patterns) and the effects from climate change. Second, low genetic diversity within interbreeding populations leads to a higher incidence of inbreeding, and potentially to inbreeding depression (reduced biological fitness), which lowers a population's ability to survive and reproduce. Finally, the breeding system of Tobusch fishhook cactus is primarily out-crossing, so populations with too little genetic diversity would produce fewer progeny.

Fire, whether natural or prescribed, appears to have little effect on individual Tobusch fishhook cactus plants. This outcome is because the plants occur where vegetation is very sparse, and the plants protrude very little above the ground and are protected by surrounding rocks from the heat of vegetation burning nearby. On the other hand, periodic fire is likely to be necessary for population persistence to reduce juniper encroachment into suitable habitats. Furthermore, the diverse shrub and forb vegetation that sustains healthy pollinator populations is maintained by periodic wildfire; without fire, dense juniper groves frequently displace these shrubs and forbs. Hence, if the native plant diversity of entire landscapes surrounding Tobusch fishhook cactus populations succumbs to juniper encroachment, pollinator populations will likely decline, and reproduction of Tobusch fishhook cactus and gene flow between its colonies may be reduced.

In addition to population resilience, we assessed the subspecies' viability in terms of its redundancy (ability to withstand catastrophic events) and representation (ability to adapt to changing environmental conditions).

Given that insect parasites are able to devastate large, dense populations, a few large populations are much more vulnerable than many small populations. The viability of Tobusch fishhook cactus derives not merely from the size of metapopulations, but also their density. Metapopulations with a low density of colonies may incur loss of genetic diversity and increased potential for inbreeding. Conversely, vulnerability to insect parasitism increases when metapopulations become too dense, or when individual colonies become too large. Assessments of resilience (metapopulation size and demographics) and redundancy (number of metapopulations within the subspecies' range) depend on how metapopulations are delineated. We believe that there must be some optimal range of metapopulation density, *i.e.,* the distance between metapopulations, and of colony size, although we do not currently know what those are.

One influence on representation is genetic diversity, both within and among populations, that is necessary to conserve long-term adaptive capability (Shaffer and Stein 2000, pp. 307–308). Genetic diversity within a population can be measured by the numbers of variant forms of genes represented in that population. One measure of this within-population genetic diversity is called heterozygosity; possible values range from 0 (all members of a population are genetically identical for specified genes) to 1.0 (all members of a population are genetically different). Another useful measure is the inbreeding coefficient (F_{IS}), which ranges from -1 (all members of the population are heterozygous, containing two forms of specific genes, and there is no evidence of inbreeding) to 1.0 (all members are homozygous, containing only one form of specific genes, and inbred). Although there are no heterozygosity levels or inbreeding coefficients that are considered healthy for all species, we may assess the genetic health of Tobusch fishhook cactus by comparison to the observed values of reference species, such as other cactus species with similar life histories that are abundant and widespread (Rayamajhi 2015, pp. 56, 63; Schwabe et al. 2015, pp. 449, 454–455).

A study by Rayamajhi (2015, entire) determined that the mean expected heterozygosity (H_e) for nine populations of Tobusch fishhook cactus was 0.59, and the mean observed heterozygosity (H_o) was 0.37 (p. 57). These results indicate relatively low levels of genetic differentiation among the nine populations; however, this situation is not unusual for endemic taxa and may also indicate a recent divergence of subspecies *tobuschii* from subspecies *brevihamatus.* Through comparison to other columnar cactus species that are endemic or have limited geographic distribution, Rayamajhi (2015) concluded that for Tobusch fishhook cactus, H_e was moderately high and H_o was moderate (pp. 58–61). The moderate H_o may be attributed to small population sizes and elevated levels of inbreeding within populations (p. 57). By comparison, H_e and H_o for *Sclerocactus glaucus,* a federally listed threatened cactus species from Colorado, were 0.66 and 0.47, respectively, while for *Sclerocactus parviflorus,* a relatively widespread cactus species, H_e and H_o were 0.62 and 0.39 (Schwabe et al. 2015, p. 449). Despite low levels of genetic differentiation, the same study found evidence of substantial gene flow among Tobusch fishhook cactus populations and healthy levels of outbreeding, with a mean inbreeding coefficient (F_{IS}) of 0.38 (range of 0.15 to 0.63) for ssp. *tobuschii* and 0.47 for ssp. *brevihamatus* (pp. 63–64). For comparison, the average F_{IS} for *S. glaucus* and *S. parviflorus* was 0.28 and 0.37 (Schwabe et al. 2015, p. 449). These results suggest that Tobusch fishhook cactus currently possesses sufficient genetic representation to conserve long-term adaptive capability.

Review of the Recovery Plan

Section 4(f) of the Act directs us to develop and implement recovery plans for the conservation and survival of endangered and threatened species unless we determine that such a plan will not promote the conservation of the species. Recovery plans identify site-specific management actions that will achieve recovery of the species, measurable criteria that set a trigger for review of the species' status, and estimates of the time and cost to recovery.

Recovery plans are not regulatory documents; instead they are intended to establish goals for long-term conservation of listed species and define criteria that are designed to indicate when the threats facing a species have been removed or reduced to such an extent that the species may no longer need the protections of the Act, as well as actions that may be employed to achieve reaching the criteria. There are many paths to accomplishing recovery of a species, and recovery may, at times, be achieved without all criteria being fully met or all actions fully implemented. Recovery of a species is a dynamic process requiring adaptive management that may, or may not, fully follow the guidance provided in a recovery plan.

The Tobusch fishhook cactus recovery plan was approved by the Service on March 18, 1987 (Service 1987). Delisting criteria were not established in the recovery plan. However, the recovery plan did establish a criterion of 3,000 individuals in each of 4 safe sites for reclassification from endangered to threatened. The explanation for how this level was calculated is not included in the recovery plan, and to date this criterion has not been met. No individual colonies have reached this size, and we now understand that insect parasites are able to devastate large, dense populations of Tobusch fishhook cactus. Thus, the downlisting criterion of 3,000 individuals per population may be unattainable or unsustainable. Such large cactus populations would eventually host very large parasite populations, leading to their collapse (Service 2017, p. 40).

Currently, many small populations exist, and surveyors have documented a total of approximately 4,500 Tobusch fishhook cactus individuals in 8 counties of the Edwards Plateau. Monitored populations, ranging from 34 to 1,090 individuals, occur on 12 properties managed either by the State or conservation organizations. We conclude that a few large cactus populations are much more vulnerable than many small populations, and we will consider revision of the 1989 recovery plan to include delisting criteria based on our new understanding of Tobusch fishhook cactus demographics.

Summary of Changes From the Proposed Rule

We have made no changes from the proposed rule.

Summary of Comments and Recommendations

In the proposed rule published on December 29, 2016 (81 FR 95932), we requested that all interested parties submit written comments on the proposal by February 27, 2017, and we reopened the public comment period from June 13, 2017, to July 13, 2017 (82 FR 27033, June 13, 2017). We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the San Antonio Express News on June 13, 2017. We did not receive any requests for a public hearing. All substantive information provided during comment periods has

either been incorporated directly into this final determination or is addressed below.

In accordance with our peer review policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from three knowledgeable individuals with scientific expertise that included familiarity with Tobusch fishhook cactus and its habitat, biological needs, and threats. We received responses from all three of the peer reviewers that they concurred with our decision to reclassify Tobusch fishhook cactus as a threatened subspecies. We received a total of five comments on the proposed rule; one from the State of Texas and four from the public. We did not receive comments from other Federal agencies or Tribes. We reviewed all comments received during the two public comment periods for substantive issues and new information regarding the proposed reclassification of Tobusch fishhook cactus. Four commenters were in favor of the proposed reclassification, and one commenter was in support of delisting Tobusch fishhook cactus. Substantive comments we received are addressed below.

(1) *Comment:* Although locating new populations of Tobusch fishhook cactus does not yet ameliorate or offset the many threats to the subspecies, Tobusch fishhook cactus does fit the definition of threatened and warrants downlisting. As stated in the SSA, Tobusch fishhook cactus requires continued conservation, management, and protection. Downlisting Tobusch fishhook cactus to threatened will allow for these continued efforts.

Our Response: We concur and look forward to continuing cooperative efforts to conserve and recover Tobusch fishhook cactus.

(2) *Comment:* The reclassification of Tobusch fishhook cactus is fully supported; however, the downlisting should also exempt the subspecies from the take prohibition of the Act.

Our Response: The Act does not prohibit the taking of either endangered or threatened plant species that occur on private lands. While the Act prohibits the taking of endangered and threatened plant species that occur on lands under Federal jurisdiction, the subspecies is not known to occur on any Federal lands.

(3) *Comment:* We believe that the SSA, representing the Service's understanding of the best available scientific and commercial information, instead leads to a scientifically supportable conclusion that Tobusch fishhook cactus is neither threatened nor endangered with extinction within the foreseeable future throughout all or a significant portion of its range. We recommend that the Service modify its proposed rule to instead remove Tobusch fishhook cactus from the Federal List of Endangered and Threatened Plants on the basis that the original listing was in error. Such a conclusion is both consistent with and directed by the SSA developed by the Service.

Our Response: The best available scientific information indicates that the subspecies remains at risk of extinction in the foreseeable future. Our analysis indicates that Tobusch fishhook cactus is likely to continue to be negatively affected by factors such as changes in vegetation and wildfire frequency, infection from parasites, feral hog rooting, and the demographic and genetic consequences of small population sizes (see discussion under Reclassification Analysis below). The subspecies persists but requires continued management, conservation, and protection under the Act to fully alleviate these threats.

We also recognize that the subspecies may be more abundant than previously estimated at the time of listing; however, calculations of true population size are difficult to make. In the SSA, we estimated that the total subspecies population is about 480,000 individuals, and total estimated potential habitat ranges over 5 million acres. However, this estimate may overstate the actual population size, as only 4,564 Tobusch fishhook cactus individuals were actually detected from 2003 to 2015. In Appendix B of the SSA Report, we explained that the estimate of the total population size of Tobusch fishhook cactus is a simple extrapolation of the average population density within surveys of potential habitat to the total amount of potential habitat. The extremely uneven distribution of this cactus complicates estimates of the true population size (Service 2016, p. 21). In the SSA Report, we also stated that the estimated population size is not a precise determination, but is the best estimate we are currently able to make with available quantitative data that has been obtained from a small number of areas (Service 2016, p. 32). One peer reviewer of the SSA stated that the general approach we used to estimate the total number of plants was sound, but because the areas surveyed were a biased sample of potential habitats, our approach likely overestimated the amount of potential habitat and population size. This overestimate is because State parks and other areas surveyed are not representative of all areas of potential habitat within the subspecies' range. We concur with these comments. The survey sample size was small and was unavoidably biased, and the method we used did not establish confidence limits to the estimate. Due to the drastic collapse of many large colonies from insect parasites, we require statistically rigorous estimates of metapopulation trends to project long-term viability.

Although the available data do indicate that both the subspecies' viability and population sizes are greater than when it was listed and that it is not currently in danger of extinction, threats to the subspecies remain unabated and Tobusch fishhook cactus is likely to become endangered with extinction in the foreseeable future.

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. Tobusch fishhook cactus was listed as endangered in 1979 due to: Few known populations, habitat destruction, and altered stream flows (Factor A); illegal collection (Factor B); and very limited geographic range, small population sizes, restricted gene pool, and lack of reproduction (Factor E). We now know there are many more populations over a much wider area; approximately 4,500 individuals have been documented at more than 97 EOs and other monitoring sites. Most habitats are relatively secure, given that they are in remote, rocky areas that are unsuitable for growing crops. However, the great majority is on private lands that are becoming increasingly fragmented and may be subject to destruction or modification. Many of the known populations are small and isolated, and the monitored portions of numerous populations have declined. Demographic population viability analyses predict an overall future decline in subspecies' viability. However, we do not know how well these analyses project the demographic trends of metapopulations distributed over larger landscapes. We know that insect parasites are a major cause of mortality and may naturally reduce populations to low densities. Many populations have sufficient genetic diversity to confer long-term adaptive capability, but some small, isolated populations have higher levels of inbreeding and may be affected by

reduced fitness and reproduction. It is likely that projected climate changes will affect Tobusch fishhook cactus, but we do not currently know whether such changes will have a net positive or negative effect on its viability.

Using the SSA framework, we have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to Tobusch fishhook cactus to consider what the subspecies needs to maintain viability. We have determined that Tobusch fishhook cactus is currently no longer in danger of extinction, because it has larger, more numerous populations that are much more widely distributed than we previously understood, and therefore the subspecies has greater resilience, redundancy, and representation. Nevertheless, it is likely to become endangered within the foreseeable future because the following threats have not been fully ameliorated and are expected to continue into the foreseeable future: Habitat destruction and modification due to changes in vegetation and wildfire frequency (Factor A), insect parasites and feral hog rooting (Factor C), and the demographic and genetic consequences of small population sizes and densities (Factor E). In the SSA Report, we projected what the future viability of Tobusch fishhook cactus could be using the timeframe 2050 to 2074. This is the same timeframe that has been used to project future climate conditions for Edwards County, Texas (U.S. Geological Survey 2015), and although climate change is not likely a direct stressor to Tobusch fishhook cactus viability, the effects from climate change on the threats to Tobusch fishhook cactus are likely to impact the future viability of the species. We used the National Climate Change Viewer (NCCV; U.S. Geological Survey 2015) to compare past and projected future climate conditions. The baseline for comparison was the observed mean values from 1950 through 2005, and 30 climate models were used to project future conditions. The NCCV generates projections for three timeframes: 2025 to 2049, 2050 to 2074, and 2075 to 2099. We chose the intermediate timeframe of 2050 to 2074 for our projections of the species status in the foreseeable future because relatively few changes may be apparent in the earlier timeframe, and projection uncertainty is greatest in the later timeframe.

Below we present our analysis of threats to Tobusch fishhook cactus. For a complete discussion of all threats, including those considered significant at the time of listing and those considered potential future threats, please refer to the SSA Report (Service 2016).

Changes in Vegetation and Wildfire Frequency (Factor A)

Bray (1904, pp. 14–15, 23–24) documented the rapid transition of grasslands to woodlands in the Edwards Plateau occurring more than a century ago; he attributed this change to overgrazing, the depletion of grasses, and the cessation of wildfires. Fonteyn et al. (1988, p. 79) state that savannas covered portions of the pre-settlement Edwards Plateau, and since 1850 were transformed to shrubland or woodland ''primarily by suppression of recurring natural and anthropogenic fires and the introduction of livestock.'' They list the fire-sensitive Ashe juniper (*Juniperus ashei*) as the most successful of many woody plants that have invaded grasslands. Reemts (2014 p. 1) lists the encroachment of woody plants into the rocky, open habitat as one of several remaining habitat-related threats that endanger Tobusch fishhook cactus. In synthesis, unlike the mountainous conifer forests of the arid southwest, where fire frequency has increased, in the Edwards Plateau of Texas, poor rangeland management depleted the grass and forb cover, and the lack of fine fuels reduced the incidence of wildfire. Juniper trees that were formerly limited by relatively frequent wildfires have now greatly increased in abundance and cover, and the proportion of ground that is shaded has increased. Since Tobusch fishhook cactus thrives in full sun, but does not tolerate dense shade, these changes in vegetation cover, wildfire frequency, and juniper cover threaten this cactus. Replacement of a diverse shrub and forb community with monocultural (growth of a single plant species) stands of juniper also reduces pollinator populations, which in turn may reduce reproduction of Tobusch fishhook cactus and gene flow between colonies (Service 2017, p. 37). We expect these threats to continue at least through the 2050 to 2074 projection period (described above), which we define as the foreseeable future for this threat.

Vegetation and fire frequency may also be influenced by climate changes. The means of 30 climate models project increasing temperatures for the Edwards Plateau of Texas over the 2050 to 2074 projection period (U.S. Geological Survey 2015). However, these models do not simulate well the projected patterns of regional precipitation (IPCC 2013, p. 11). Average precipitation may increase or decrease, seasonal rainfall patterns may change, and annual variation in rainfall may increase. Consequently, we do not know what the net effect of climate changes will be on vegetation and wildfire frequency nor how these changes might affect the viability of Tobusch fishhook cactus.

Overutilization for Commercial, Recreational, Scientific, or Educational Purposes (Factor B)

The listing of Tobusch fishhook cactus as an endangered species (44 FR 64736) included collection from wild populations for the commercial cactus trade as a threat to the species. Subsequently, we have detected very little evidence of illicit collection from wild populations; this potential threat has not substantively affected the species survival.

Insect Parasites (Factor C)

The Tobusch fishhook cactus weevil (*Gerstaeckeria* spp.) and cactus longhorn beetle (*Moneilema* spp.) parasitize and kill Tobusch fishhook cactus plants. Populations of these parasites increase rapidly in large, dense cactus colonies and have caused drastic declines in many of the larger populations (Calvert 2003, entire). Conversely, since the parasites are flightless, smaller, widely dispersed colonies may be less susceptible to parasite infestation. Periodic outbreaks of insect parasitism appear to be an unavoidable natural cycle that may exacerbate population declines from other causes, and currently there are no management practices to prevent or minimize insect parasitism. Therefore, this threat remains unabated, and we expect it will continue at least through the foreseeable future (described above), which we define as the foreseeable future for this threat.

Other Herbivory (Factor C)

The incidence of herbivory by jackrabbits, rodents, and other native herbivores on Tobusch fishhook cactus is relatively minor (Poole and Birnbaum (2003, pp. 11–12). However, introduced feral hogs are abundant throughout the subspecies' range and have damaged and destroyed Tobusch fishhook cactus individuals and habitats in many sites (Reemts 2015, p. 1). Feral hog populations remain undiminished in Texas despite active hunting and trapping efforts. Therefore, this threat remains unabated, and we expect it will continue at least through the 2050 to 2074 projection period (described above), which we define as the foreseeable future for this threat.

The Inadequacy of Existing Regulatory Mechanisms (Factor D)

Only a very small fraction of the potential habitat of Tobusch fishhook cactus occurs on state parks or other public lands where the habitat could be directly managed through regulatory mechanisms. Regulatory mechanisms cannot ensure habitat management and species conservation on the great majority of the species habitats that occur on privately owned land. Thus the habitat-related threats and feral hog issues described above are anticipated to continue to impact the species regardless of existing regulatory mechanisms.

Demographic and Genetic Consequences of Small Population Size and Density (Factor E)

Small populations are less able to recover from losses caused by random environmental changes (Shaffer and Stein 2000, pp. 308–310), such as fluctuations in recruitment (demographic stochasticity), variations in rainfall (environmental stochasticity), or changes in the frequency of wildfires. Poole and Birnbaum (2003, p. 1) estimated a minimum viable population (MVP) size of 1,200 individuals for Tobusch fishhook cactus (Service 2016, section II.7.5, available at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2016–0130). Since the subspecies has a predominantly out-crossing breeding system, the probability of successful fertilization between unrelated individuals is reduced in small, isolated populations. The remaining plants would produce fewer viable seeds, further reducing population recruitment and engendering a downward spiral toward extirpation. The demographic consequences of small population size are compounded by genetic consequences, because reduced out-crossing corresponds to increased inbreeding. In addition to population size, it is likely that population density within metapopulations also influences population viability; density must be high enough for gene flow within metapopulations, but low enough to minimize parasite infestations. Small, reproductively isolated populations are also susceptible to the loss of genetic diversity, to genetic drift (random fluctuations in the numbers of gene variants), and to inbreeding. The loss of genetic diversity is likely to cause a loss of fitness and lower chance of survival of populations and of the subspecies. Genetic drift may also cause the loss of genetic diversity in small populations. Inbreeding depression is the loss of fitness among offspring of closely related individuals. Rayamajhi (2015, pp. 63–64) found relatively high inbreeding coefficients in three of eight populations, which he attributed to mating of close relatives within small, isolated populations. We conclude that small population sizes, low densities, and isolation of populations threaten the survival of Tobusch fishhook cactus. We expect that abatement of these threats could not be overcome for one or more lifespans. Tobusch fishhook cactus is able to reproduce after about 10 years, and may live 50 years or more. Therefore, we define the foreseeable future for this threat to be a period of about 50 years.

Determination

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of ''endangered species'' or ''threatened species.'' The Act defines an ''endangered species'' as a species that is ''in danger of extinction throughout all or a significant portion of its range,'' and a ''threatened species'' as a species that is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The Act requires that we determine whether a species meets the definition of ''endangered species'' or ''threatened species'' because of any of the following 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. The same factors apply whether we are analyzing the species' status throughout all of its range or throughout a significant portion of its range.

On July 1, 2014, we published a final policy interpreting the phrase ''significant portion of its range'' (SPR) (79 FR 37578) (SPR Policy). Aspects of that policy were vacated for species that occur in Arizona by the United States District Court for the District of Arizona. *CBD* v. *Jewell,* No. CV–14–02506–TUC–RM (Mar. 29, 2017), *clarified by the court,* Mar. 29, 2017. Since the Tobusch fishhook cactus does not occur in Arizona, for this finding we rely on the SPR Policy, and also provide additional explanation and support for our interpretation of the SPR phrase. 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, it, the species, is an ''endangered species.'' The same analysis applies to ''threatened species.''

Our final policy addresses the consequences of finding that a species is in danger of extinction in an SPR, and interprets what would constitute an SPR. The final policy includes four elements: (1) If a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as an endangered species or a threatened species, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time the Service or the National Marine Fisheries Service makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

The SPR policy applies to analyses for all status determinations, including listing, delisting, and reclassification determinations. As described in the first element of our policy, once the Service determines that a ''species''—which can include a species, subspecies, or distinct population segment (DPS)—meets the definition of ''endangered species'' or ''threatened species,'' the species must be listed in its entirety and the Act's protections applied consistently to all individuals of the species wherever found (subject to modification of protections through special rules under sections 4(d) and 10(j) of the Act).

For the second element, the policy sets out the procedure for analyzing

whether any portion is an SPR; the procedure is similar, regardless of the type of status determination we are making. The first step in our assessment of the status of a species is to determine its status throughout all of its range. We subsequently examine whether, in light of the species' status throughout all of its range, it is necessary to determine its status throughout a significant portion of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we list the species as an endangered (or threatened) species and no SPR analysis is required. The policy explains in detail the bases for this conclusion—including that this process ensures that the SPR language provides an independent basis for listing; maximizes the flexibility of the Service to provide protections for the species; and eliminates the potential confusion is a species could meet the definitions of both ''endangered species'' and ''threatened species'' based on its statuses throughout its range and in a significant portion of its range. *See, e.g.,* SPR Policy, 79 FR at 37580–81.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to Tobusch fishhook cactus. Based on the analysis in the SSA, and information summarized above, we have determined that Tobusch fishhook cactus' current viability is higher than was known at the time of listing, and we believe that Tobusch fishhook cactus is not in danger of extinction throughout all of its range. However, due to continued threats from the demographic and genetic consequences of small population sizes and geographic isolation, insect parasitism, feral hog depredation, and changes in the wildfire cycle and vegetation, as well as unknown long-term effects of land use changes and climate changes, we find that Tobusch fishhook cactus is likely to become an endangered subspecies within the foreseeable future throughout all of its range.

Consistent with our interpretation that there are two independent bases for listing species as described above, after examining the status of Tobusch fishhook cactus throughout all of its range, we now examine whether it is necessary to determine its status throughout a significant portion of its range. Per our final SPR policy, we must give operational effect to both the ''throughout all'' of its range language and the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' As discussed earlier and in greater detail in the SPR Policy, we have concluded that to give operational effect to both the ''throughout all'' language and the SPR phrase, the Service should conduct an SPR analysis if (and only if) a species does not warrant listing according to the ''throughout all'' language.

Because we found that Tobusch fishhook cactus is likely to become endangered in the foreseeable future throughout all of its range, per our Service's Significant Portion of its Range (SPR) Policy (79 FR 37578, July 1, 2014), no portion of its range can be significant for purposes of the definitions of endangered species and threatened species. We therefore do not need to conduct an analysis of whether there is any significant portion of its range where the species is in danger of extinction or likely to become so in the foreseeable future.

Therefore, on the basis of the best available scientific and commercial information, we are reclassifying Tobusch fishhook cactus as a threatened species in accordance with sections 3(6) and 4(a)(1) of the Act.

Under the Act and its implementing regulations, a determination that a species is endangered or threatened also requires the Secretary, to the maximum extent prudent, to specify any habitat of such species which is considered to be critical habitat. The determination that it would not be prudent to designate critical habitat for Tobusch fishhook cactus that was made at the time the plant was listed as an endangered species remains true (44 FR 64737, November 7, 1979). Publication of critical habitat maps and cactus population locations increases the plants' vulnerability to collection from areas not under Federal jurisdiction, an activity that is not prohibited for plants under the Act. While there has been no recent evidence of collection of this species, collection is a threat to most cactus species, and is likely to increase if population sites are publicized. Given the predominance of private land ownership patterns for Tobusch fishhook cactus habitats, collection still may become a threat in the foreseeable future.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. 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.

Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The current Tobusch fishhook cactus recovery plan was approved by the Service on March 18, 1987 (Service 1987). As a result of this reclassification, a revision of the plan is planned to address continuing threats to the subspecies, and will also establish delisting criteria. When completed, a revised draft and final recovery plan will be available on our website (*http://www.fws.gov/endangered*) or from our Austin 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, Tribal, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, 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.

Following publication of this final reclassification rule, funding for recovery actions will continue to 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. In addition, pursuant to section 6 of the Act, the State of Texas will continue to be eligible for Federal funds to implement management actions that promote the protection or recovery of Tobusch fishhook cactus. 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 Tobusch fishhook cactus. Additionally, we invite you to submit any new information on this subspecies 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 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)(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 any endangered or threatened 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 management and any other landscape-altering activities related to the issuance of section 404 Clean Water Act permits by the Army Corps of Engineers, and construction and maintenance of roads or highways by the Federal Highway Administration.

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.

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 final listing on proposed and ongoing activities within the range of a 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 Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Effects of the Rule

This final rule revises 50 CFR 17.12(h) to reclassify Tobusch fishhook cactus from endangered to threatened on the Federal List of Endangered and Threatened Plants, and changes the scientific name from *Ancistrocactus tobuschii* to *Sclerocactus brevihamatus* ssp. *tobuschii.* Because no critical habitat was ever designated for Tobusch fishhook cactus, this rule will not affect 50 CFR 17.96.

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 Tobusch fishhook cactus. 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 Tobusch fishhook cactus.

Required Determinations

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

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with tribes in developing programs for healthy ecosystems, to acknowledge that tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to tribes.

References Cited

A complete list of all references cited in this rulemaking is available on the internet at *http://www.regulations.gov*

and upon request from the Austin Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Austin Ecological Services Field Office, U.S. Fish and Wildlife Service (see **ADDRESSES**).

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; and 4201–4245; unless otherwise noted.

■ 2. Amend § 17.12(h) by removing the entry for ''*Ancistrocactus tobuschii*'' and adding the following entry to the List of Endangered and Threatened Plants in alphabetical order under Flowering Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Sclerocactus brevihamatus ssp. *tobuschii.*	Tobusch fishhook cactus.	Wherever found	T	44 FR 64736, 11/7/1979; 83 FR [Insert **Federal Register** page where the document begins], 5/15/2018.
*	*	*	*	*

Dated: April 20, 2018.

James W. Kurth,

Deputy Director Exercising the Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2018–10206 Filed 5–14–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 171023999–8440–02]

RIN 0648–BH31

Magnuson-Stevens Act Provisions; Fisheries Off West Coast States; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures for the 2018 Tribal and Non-Tribal Fisheries for Pacific Whiting

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule for the 2018 Pacific whiting fishery under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and the Pacific Whiting Act of 2006. This final rule announces the 2018 U.S. Total Allowable Catch of 441,433 metric tons (mt) of Pacific whiting, establishes a tribal allocation of 77,251 mt, establishes a set-aside for research and bycatch of 1,500 mt, and announces the allocations of Pacific whiting to the non-tribal fishery for 2018. The catch limits in this rule are intended to ensure the long-term sustainability of the Pacific whiting stock.

DATES: Effective May 15, 2018.

FOR FURTHER INFORMATION CONTACT: Frank Lockhart (West Coast Region, NMFS), phone: 206–526–6142, and email: *Frank.Lockhart@noaa.gov.*

Electronic Access

This final rule is accessible via the internet at the Office of the Federal Register website at *https://www.federalregister.gov.* Background information and documents are available at the NMFS West Coast Region website at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html* and at the Pacific Fishery Management Council's website at *http://www.pcouncil.org/.*

The final environmental impact statement regarding Harvest Specifications and Management Measures for 2015–2016 and Biennial Periods Thereafter, and the Final Environmental Assessment for Pacific Coast Groundfish Harvest Specifications and Management Measures for 2017–2018 and Amendment 27 to the Pacific Coast Groundfish Fishery Management Plan, are available on the NMFS West Coast Region website at: *www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/groundfish_nepa_documents.html* and copies are available from Chuck Tracy, Executive Director, Pacific Fishery Management Council (Council), 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

SUPPLEMENTARY INFORMATION:

Background

This final rule announces the total allowable catch (TAC) for Pacific whiting, which was determined under the terms of the Agreement with Canada on Pacific Hake/Whiting (Agreement) and the Pacific Whiting Act of 2006 (Whiting Act). The Agreement and the Whiting Act establish bilateral bodies to implement the terms of the Agreement. The bilateral bodies include: The Joint Management Committee (JMC), which recommends the annual catch level for Pacific whiting; the Joint Technical Committee (JTC), which conducts the Pacific whiting stock assessment; the Scientific Review Group (SRG), which reviews the stock assessment; and the Advisory Panel (AP), which provides stakeholder input to the JMC.

The Agreement establishes a default harvest policy of F–40 percent, which means a fishing mortality rate that would reduce the biomass to 40 percent of the estimated unfished level (F–40). The Agreement also allocates 73.88 percent of the TAC to the United States and 26.12 percent of the TAC to Canada. The JMC is primarily responsible for developing a TAC recommendation to the United States and Canada. The Secretary of Commerce, in consultation with the Secretary of State, has the authority to accept or reject this recommendation.

2018 Pacific Whiting Stock Assessment

The JTC completed a stock assessment for Pacific whiting in March 2018. The assessment is available at *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting_treaty.html.* The assessment presents a model that depends primarily upon an acoustic survey biomass index and catches of the transboundary Pacific whiting stock to estimate the biomass of the current stock. The most recent survey, conducted collaboratively between the Canadian Department of Fisheries and Oceans and NMFS, was completed in 2017.

Pacific whiting spawning stock biomass has been relatively stable since 2013. The 2018 spawning biomass estimated to be 1.357 million mt. Relative female spawning biomass for 2018 is estimated at 66.7 percent of the unfished levels. The stock is currently estimated to be at its highest level since the 1980s, as a result of an exceptionally strong 2010 cohort and above average 2014 cohort. As with past estimates, there is a considerable range of uncertainty associated with this estimate, because the youngest cohorts that make up a large portion of the survey biomass have not been observed for very long.

The JTC provided tables showing catch alternatives for 2018. Using the default F–40 percent harvest rate identified in the Agreement (Paragraph 1 of Article III), the coastwide TAC for 2018 would be 725,984 mt. Projections setting the 2018 and 2019 catch equal to the 2017 TAC of 597,500 mt show the estimated median relative spawning biomass decreasing from 67 percent in 2018 to 59 percent in 2019 and to 50 percent in 2020, with a 36 percent chance of the spawning biomass falling below 40 percent of estimated historic biomass levels in 2020. There is an estimated 73 percent chance of the spawning biomass declining from 2018 to 2019, and an 82 percent chance of it declining from 2019 to 2020 under this constant catch level. However, the 2018 estimate of median stock biomass is well above the overfished threshold, and fishing intensity is below the F–40 percent target. This indicates that the coastal Pacific whiting stock is not overfished and that overfishing is not occurring.

Scientific and Management Reviews

The SRG, a bilateral body created under the Agreement, met in Lynnwood, Washington on February 26–March 1, 2018, to review the draft stock assessment document. The SRG determined that the 2018 Pacific whiting assessment report and appendices present the best available scientific information for the management of Pacific whiting. During the meeting, however, the SRG raised a concern that the model results and corresponding estimates of spawning stock biomass are strongly affected by the choice of weights-at-age used in estimating fecundity. To consider the variability in stock status estimates, the SRG requested that the JTC analyze two approaches using different weights-at-age (Appendix A in the stock assessment report). The first approach is consistent with previous assessments, and includes time-invariant fecundity-at-age based on the average vector of weights-at-age over all years. The second approach is derived from an alternative model using time-varying fecundity-at-age calculated with annual estimates of mean weights-at-age. The range of uncertainty of each model includes the median estimate of current spawning biomass estimated by the other model. However, the alternative model estimates that 2018 spawning stock biomass is lower and much closer to the reference point (B40) than the base-case model. The SRG's analysis suggested that this may be because weights-at-age are important to calculating unfished spawning biomass (B0), and the alternative model estimates a higher B0 as a consequence of using higher mean weights-at-age in the early years of the time series (1975–1979). The probability that 2018 spawning biomass is below the B40 reference point is estimated as 7 percent by the base-case model and 48 percent by the alternative model. Despite substantial discussion, the SRG was unable to offer advice on which model is more plausible, and requested additional work in the coming year from the JTC to address the issue.

The AP and JMC met on March 5–6, 2018, in Lynnwood, Washington, to develop advice on a 2018 coastwide TAC. The AP provided its 2018 TAC recommendation to the JMC on March 6, 2018. The JMC reviewed the advice of the JTC, the SRG, and the AP, and agreed on a TAC recommendation for transmittal to the United States and Canadian Governments.

The Agreement directs the JMC to base the catch limit recommendation on the default harvest rate unless scientific evidence demonstrates that a different rate is necessary to sustain the offshore Pacific whiting resource. After consideration of the 2018 stock assessment and other relevant scientific information, the JMC did not use the default harvest rate, and instead agreed on a more conservative approach, using the same catch limits as 2017. There were three primary reasons for choosing a TAC below the default level of F–40 percent. First, the growth of the 2010 year class is slowing, which the recent historic-high catch has in part depended on, and JMC members wanted to extend the harvest available from this year class. Second, the 2018 stock assessment estimated a lower abundance than last year's assessment for the 2014 year class, which comprised more of the 2016 fall catch than the large 2010 cohort, so the JMC did not want to increase mortality on this year class, which is anticipated to be important to the fishery over the next several years. Finally, the overall abundance of Pacific hake/whiting is projected to begin declining from its recent historic high levels, and the JMC did not want to accelerate this decline by increasing the TAC. This conservative TAC setting process, endorsed by the AP, resulted in a TAC that is less than what it would be using the default harvest rate under the Agreement.

The recommendation for an unadjusted 2018 U.S. TAC of 382,532 mt, plus 58,901 mt carryover of uncaught quota from 2017 results in an adjusted U.S. TAC of 441,433 mt for 2018 (73.88 percent of the coastwide TAC). This recommendation is consistent with the best available scientific information, provisions of the Agreement, and the Whiting Act. The recommendation was transmitted via letter to the United States and Canadian Governments on March 6, 2018. NMFS, under delegation of authority from the Secretary of Commerce, approved the adjusted TAC recommendation of 441,433 mt for U.S. fisheries on April 23, 2018.

Tribal Fishery Allocation

This final rule establishes the tribal allocation of Pacific whiting for 2018. NMFS issued a proposed rule regarding this allocation on January 24, 2018 (83 FR 3291). This action finalizes the tribal allocation. Since 1996, NMFS has been allocating a portion of the U.S. TAC of Pacific whiting to the tribal fishery. Regulations for the Pacific Coast Groundfish Fishery Management Plan specify that the tribal allocation is subtracted from the total U.S. Pacific whiting TAC. The tribal Pacific whiting fishery is managed separately from the non-tribal Pacific whiting fishery, and is not governed by limited entry or open access regulations or allocations.

The proposed rule described the tribal allocation as 17.5 percent of the U.S. TAC, and projected a range of potential tribal allocations for 2018 based on a

range of U.S. TACs over the last 10 years (plus or minus 25 percent to capture variability in stock abundance). As described in the proposed rule, the resulting range of potential tribal allocations was 17,842 to 96,563 mt. Applying the approach described in the proposed rule, NMFS is establishing the 2018 tribal allocation of 77,251 mt (17.5 percent of the U.S. TAC) in this final rule. In 2009, NMFS, the states of Washington and Oregon, and the tribes with treaty rights to harvest whiting started a process to determine the long-term tribal allocation for Pacific whiting; however, no long-term allocation has been determined. While new scientific information or discussions with the relevant parties may impact that decision, the best available scientific information to date suggests that 77,251 mt is within the likely range of potential treaty right amounts.

As with prior tribal Pacific whiting allocations, this final rule is not intended to establish precedent for future Pacific whiting seasons, or for the determination of the total amount of whiting to which the Tribes are entitled under their treaty right. Rather, this rule adopts an interim allocation. The long-term tribal treaty amount will be based on further development of scientific information and additional coordination and discussion with and among the coastal tribes and the states of Washington and Oregon.

Harvest Guidelines and Allocations

In addition to the tribal allocation described in the proposed rule, this final rule establishes the fishery harvest guideline (HG), called the non-tribal allocation, which had not yet been determined at the time the proposed rule was published. Although this was not part of the proposed rule, the environmental assessment for the 2017–2018 harvest specifications rule (see ELECTRONIC ACCESS) analyzed a range of TAC alternatives for 2018, and the final 2018 TAC falls within this analyzed range. In addition, via the 2017–2018 specifications rulemaking process, the public had an opportunity to comment on the 2017–2018 TACs for whiting, just as they did for all species in the groundfish FMP. NMFS follows this process because, unlike for all other groundfish species, the TAC for whiting is decided in a highly abbreviated annual process from February through April of every year, and the normal rulemaking process would not allow for the fishery to open with the new TAC on the annual season opening date of May 15.

The HG is allocated among the three non-tribal sectors of the Pacific whiting fishery. The 2018 fishery HG for Pacific whiting is 362,682 mt. This amount was determined by deducting the 77,251 mt tribal allocation and the 1,500 mt allocation for scientific research catch and fishing mortality in non-groundfish fisheries from the total U.S. TAC of 441,433 mt.

NMFS did not include the HG in the tribal whiting proposed rule published on January 24, 2018 (83 FR 3291), for two reasons related to timing and process. First, a recommendation on the coastwide TAC for Pacific whiting for 2018, under the terms of the Agreement with Canada, was not available during development of the proposed rule. NMFS, under delegation of authority from the Secretary of Commerce, approved a U.S. TAC on April 23, 2018. Second, the fishery HG is established following deductions from the U.S. TAC for the tribal allocation, mortality in scientific research activities, and fishing mortality in non-groundfish fisheries. The Council recommends to NMFS the research and bycatch set-aside on an annual basis, based on estimates of scientific research catch and estimated bycatch mortality in non-groundfish fisheries.

The regulations further allocate the fishery HG among the non-tribal catcher/processor (C/P) Coop Program, Mothership (MS) Coop Program, and Shorebased Individual Fishing Quota (IFQ) Program sectors of the Pacific whiting fishery. The C/P Coop Program is allocated 34 percent (123,312 mt for 2018), the MS Coop Program is allocated 24 percent (87,044 mt for 2018), and the Shorebased IFQ Program is allocated 42 percent (152,326.5 mt for 2018). The fishery south of 42° N lat. may not take more than 7,616 mt (5 percent of the Shorebased IFQ Program allocation) prior to May 15, the start of the primary Pacific whiting season north of 42° N lat.

TABLE 1—2018 PACIFIC WHITING ALLOCATIONS

Sector	2018 Pacific whiting allocation (mt)
Tribal	77,251
Catcher/Processor (C/P) Coop Program	123,312
Mothership (MS) Coop Program	87,044
Shorebased IFQ Program	152,326.5

In 2018, NMFS published a final rule changing the management of darkblotched rockfish and Pacific ocean perch from a total catch limit allocation to a set-aside (January 8, 2018; 83 FR 757). These set asides as well as the allocations of canary and widow rockfish to the Pacific whiting fishery are described in the footnotes to Table 2.b to part 660, subpart C and are not changed in this rulemaking.

Comments and Responses

On January 24, 2018, NMFS issued a proposed rule for the allocation and management of the 2018 tribal Pacific whiting fishery (83 FR 3291). The comment period on the proposed rule closed on February 23, 2018. No relevant comments were received, and no changes were made from the proposed allocation and management measures for the 2018 tribal Pacific whiting fishery.

Classification

The Annual Specifications and Management Measures for the 2018 Tribal and non-Tribal Fisheries for Pacific Whiting are issued under the authority of the Magnuson-Stevens Act, and the Whiting Act of 2006. The measures are in accordance with 50 CFR part 660, subparts C through G, the regulations implementing the Pacific Coast Groundfish FMP, and NMFS has determined that this rule is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws.

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), the NMFS Assistant Administrator finds good cause to waive prior public notice and comment and delay in effectiveness for those provisions in this final rule that were not included in proposed rule (83 FR 3291), *e.g.,* the U.S. TAC, as delaying this rule would be impracticable and contrary to the public interest. The annual harvest specifications for Pacific whiting must be implemented by the start of the primary Pacific whiting season, which begins on May 15, 2018, or the primary Pacific whiting fishery will effectively remain closed.

Every year, NMFS conducts a Pacific whiting stock assessment with participation from U.S. and Canadian scientists. The 2018 stock assessment for Pacific whiting was prepared in early 2018, and included updated total catch, length and age data from the U.S. and Canadian fisheries from 2017, and biomass indices from the 2017 Joint U.S.-Canadian acoustic/midwater trawl surveys. Because of this late availability of the most recent data for the assessment, and the need for time to conduct the treaty process for determining the TAC using the most recent assessment, a determination on

TAC could not be completed before April 23, 2018. Thus, it is not possible to allow for notice and comment before the start of the primary Pacific whiting season on May 15.

A delay in implementing the Pacific whiting harvest specifications to allow for notice and comment would be contrary to the public interest because it would require either a shorter primary whiting season or development of a TAC without the most recent data. A shorter season could prevent the tribal and non-tribal fisheries from attaining their 2018 allocations, which would result in unnecessary short-term adverse economic effects for the Pacific whiting fishing vessels and the associated fishing communities. A TAC determined without the most recent data could fail to account for significant fluctuations in the biomass of this relatively short-lived species. To prevent these adverse effects and to allow the Pacific whiting season to commence, it is in the best interest of the public to waive prior notice and comment.

In addition, pursuant to 5 U.S.C. 553(d)(3), the NMFS Assistant Administrator finds good cause to waive the 30-day delay in effectiveness. Waiving the 30-day delay in effectiveness will not have a negative impact on any entities, as there are no new compliance requirements or other burdens placed on the fishing community with this rule. Failure to make this final rule effective at the start of the fishing year will undermine the intent of the rule, which is to promote the optimal utilization and conservation of Pacific whiting. Making this rule effective immediately would also serve the best interests of the public because it will allow for the longest possible Pacific whiting fishing season and therefore the best possible economic outcome for those whose livelihoods depend on this fishery. Because the 30-day delay in effectiveness would potentially cause significant financial harm without providing any corresponding benefits, this final rule is effective upon publication in the **Federal Register**.

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

Final Regulatory Flexibility Analysis

The description of this action, its purpose, and its legal basis are described in the preamble to the proposed rule and are not repeated here. A final regulatory flexibility analysis (FRFA) was prepared and incorporates the initial regulatory flexibility analysis (IRFA). NMFS also prepared a Regulatory Impact Review (RIR) for this action. A copy of the RIR/FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA, per the requirements of 5 U.S.C. 604 follows.

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

NMFS published a proposed rule on January 24, 2018 (83 FR 13291), for the allocation of the 2018 tribal Pacific whiting fishery. The comment period on the proposed rule closed on February 23, 2018, and no comments were received from either the public or the Small Business Administration on the initial regulatory flexibility analysis (IRFA) or the economic impacts of this action generally.

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

The FRFA describes the impacts on small entities, which are defined in the IRFA for this action and not repeated here.

The current Shorebased IFQ Program is composed of 180 Quota Share permits/accounts, 154 vessel accounts, and 47 first receivers, only a portion of which participate in the Pacific whiting fishery. These regulations also directly affect participants in the MS Coop Program, a general term to describe the limited access program that applies to eligible harvesters and processors in the MS sector of the Pacific whiting at-sea trawl fishery. This program currently consists of six MS processor permits, and a catcher vessel fleet currently composed of a single coop, with 34 Mothership/Catcher Vessel (MS/CV) endorsed permits (with three permits each having two catch history assignments).

These regulations also directly affect the C/P Coop Program, composed of 10 C/P endorsed permits owned by three companies that have formed a single coop. These coops are considered large entities from several perspectives; they have participants that are large entities, and have in total more than 750 employees worldwide including affiliates.

Although there are three non-tribal sectors, many companies participate in two sectors and some participate in all three sectors. As part of the permit application processes for the non-tribal fisheries, based on a review of the Small Business Administration size criteria, permit applicants were asked if they considered themselves a ''small'' business, and to provide detailed ownership information. After accounting for cross participation, multiple quota share account holders, and affiliation through ownership, NMFS estimates there are 103 non-tribal entities directly affected by these final regulations, 89 of which are considered ''small'' businesses.

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

Sector allocations in 2018 are the same as those in 2017. NMFS concludes that this rule will have similar outcomes as 2017 for both large and small entities, and will not disproportionately affect small entities. The U.S. portion of the TAC is divided between tribal, at-sea mothership, at-sea catcher processors, and shoreside whiting sectors at fixed percentages described above. Within the non-tribal sectors, a catch share program allocates whiting to the individual vessel level based on history in the shoreside and mothership sectors. The catcher-processor coop harvests according to a coop agreement with agreed upon allocations to each company, which have not changed in the past eight years. With allocation determined down to the individual level in each sector, the TAC should benefit both large and small entities equal to the proportion of the individual level, and small entities would not feel disproportionate effects relative to large entities. With the high 2018 TAC, small entities are expected to benefit, and experience no adverse effects from this rule.

NMFS considered two alternatives for this action: The ''No-Action'' and the ''Proposed Action.'' Under the Proposed Action alternative, NMFS proposed to set the tribal allocation percentage at 17.5 percent, as requested by the tribes. These requests reflect the level of participation in the fishery that will allow the tribes to exercise their treaty right to fish for Pacific whiting. Consideration of a percentage lower than the tribal request of 17.5 percent is not appropriate in this instance. As a matter of policy, NMFS has historically supported the harvest levels requested by the tribes. Based on the information available to NMFS, the tribal request is within their tribal treaty rights. A higher percentage would arguably also be within the scope of the treaty right.

However, a higher percentage would unnecessarily limit the non-tribal fishery. Under the no-action alternative, NMFS would not make an allocation to the tribal sector. This alternative was considered, but the regulatory framework provides for a tribal allocation on an annual basis only. Therefore, the no-action alternative would result in no allocation of Pacific whiting to the tribal sector in 2018, which would be inconsistent with NMFS' responsibility to manage the fishery consistent with the tribes' treaty rights. Given that there is a tribal request for allocation in 2018, this alternative received no further consideration.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

There are no reporting or recordkeeping requirements associated with this final rule. No federal rules have been identified that duplicate, overlap, or conflict with this action.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide will be sent to stakeholders, and copies of this final rule and guides (*i.e.,* information bulletins) are available from NMFS at the following website: *http://www.westcoast.fisheries.noaa.gov/fisheries/management/whiting/pacific_whiting.html.*

Consultation and Coordination With Indian Tribal Governments

Pursuant to Executive Order 13175, this final rule was developed after meaningful collaboration with tribal officials from the area covered by the FMP. Consistent with the Magnuson-Stevens Act at 16 U.S.C. 1852(b)(5), one of the voting members of the Pacific Council is a representative of an Indian tribe with federally recognized fishing rights from the area of the Council's jurisdiction. In addition, NMFS has coordinated specifically with the tribes interested in the whiting fishery regarding the issues addressed by this final rule.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indian fisheries.

Dated: May 9, 2018.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.,* 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2018 is 77,251 mt.

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■ 3. Table 2a to part 660, subpart C, is revised to read as follows:

TABLE 2a TO PART 660, SUBPART C—2018, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES

[Weights in metric tons]

Species	Area	OFL	ABC	ACL [a]	Fishery HG [b]
BOCACCIO [c]	S of 40°10′ N lat.	2,013	1,924	741	726
COWCOD [d]	S of 40°10′ N lat.	71	64	10	8
DARKBLOTCHED ROCKFISH [e]	Coastwide	683	653	653	576
PACIFIC OCEAN PERCH [f]	N of 40°10′ N lat.	984	941	281	232
YELLOWEYE ROCKFISH [g]	Coastwide	58	48	20	14
Arrowtooth flounder [h]	Coastwide	16,498	13,743	13,743	11,645
Big skate [i]	Coastwide	541	494	494	437
Black rockfish [j]	California (South of 42° N lat.)	347	332	332	331
Black rockfish [k]	Oregon (Between 46°16′ N lat. and 42° N lat.).	570	520	520	519
Black rockfish [l]	Washington (N of 46°16′ N lat.)	315	301	301	283
Blackgill rockfish [m]	S of 40°10′ N lat.	NA	NA	NA	NA
Cabezon [n]	California (South of 42° N lat.)	156	149	149	149
Cabezon [o]	Oregon (Between 46°16′ N lat. and 42° N lat.).	49	47	47	47
California scorpionfish [p]	S of 34°27′ N lat.	278	254	150	148
Canary rockfish [q]	Coastwide	1,596	1,526	1,526	1,467
Chilipepper [r]	S of 40°10′ N lat.	2,623	2,507	2,507	2,461
Dover sole [s]	Coastwide	90,282	86,310	50,000	48,406
English sole [t]	Coastwide	8,255	7,537	7,537	7,324
Lingcod [u]	N of 40°10′ N lat.	3,310	3,110	3,110	2,832
Lingcod [v]	S of 40°10′ N lat.	1,373	1,144	1,144	1,135
Longnose skate [w]	Coastwide	2,526	2,415	2,000	1,853
Longspine thornyhead [x]	Coastwide	4,339	3,614	NA	NA
Longspine thornyhead	N of 34°27′ N lat.	NA	NA	2,747	2,700
Longspine thornyhead	S of 34°27′ N lat.	NA	NA	867	864
Pacific cod [y]	Coastwide	3,200	2,221	1,600	1,091
Pacific whiting [z]	Coastwide	725,984	[z]	[z]	362,682
Petrale sole [aa]	Coastwide	3,152	3,013	3,013	2,772
Sablefish	Coastwide	8,329	7,604	NA	NA
Sablefish [bb]	N of 36° N lat.	NA	NA	5,475	See Table 2c

TABLE 2a TO PART 660, SUBPART C—2018, AND BEYOND, SPECIFICATIONS OF OFL, ABC, ACL, ACT AND FISHERY HARVEST GUIDELINES—Continued

[Weights in metric tons]

Species	Area	OFL	ABC	ACL [a]	Fishery HG [b]
Sablefish [cc]	S of 36° N lat.	NA	NA	1,944	1,939
Shortbelly rockfish [dd]	Coastwide	6,950	5,789	500	489
Shortspine thornyhead [ee]	Coastwide	3,116	2,596	NA	NA
Shortspine thornyhead	N of 34°27′ N lat.	NA	NA	1,698	1,639
Shortspine thornyhead	S of 34°27′ N lat.	NA	NA	898	856
Spiny dogfish [ff]	Coastwide	2,500	2,083	2,083	1,745
Splitnose rockfish [gg]	S of 40°10′ N lat.	1,842	1,761	1,761	1,750
Starry flounder [hh]	Coastwide	1,847	1,282	1,282	1,272
Widow rockfish [ii]	Coastwide	13,237	12,655	12,655	12,437
Yellowtail rockfish [jj]	N of 40°10′ N lat.	6,574	6,002	6,002	4,972
Minor Nearshore Rockfish [kk]	N of 40°10′ N lat.	119	105	105	103
Minor Shelf Rockfish [ll]	N of 40°10′ N lat.	2,302	2,048	2,047	1,963
Minor Slope Rockfish [mm]	N of 40°10′ N lat.	1,896	1,754	1,754	1,689
Minor Nearshore Rockfish [nn]	S of 40°10′ N lat.	1,344	1,180	1,179	1,175
Minor Shelf Rockfish [oo]	S of 40°10′ N lat.	1,918	1,625	1,624	1,577
Minor Slope Rockfish [pp]	S of 40°10′ N lat.	829	719	709	689
Other Flatfish [qq]	Coastwide	9,690	7,281	7,281	7,077
Other Fish [rr]	Coastwide	501	441	441	441

[a] Annual catch limits (ACLs), annual catch targets (ACTs) and harvest guidelines (HGs) are specified as total catch values.

[b] Fishery harvest guidelines means the harvest guideline or quota after subtracting Pacific Coast treaty Indian tribes allocations and projected catch, projected research catch, deductions for fishing mortality in non-groundfish fisheries, and deductions for EFPs from the ACL or ACT.

[c] Bocaccio. A stock assessment was conducted in 2015 for the bocaccio stock between the U.S.-Mexico border and Cape Blanco. The stock is managed with stock-specific harvest specifications south of 40deg;10′ N lat. and within the Minor Shelf Rockfish complex north of 40deg;10′ N lat. A historical catch distribution of approximately 7.4 percent was used to apportion the assessed stock to the area north of 40deg;10′ N lat. The bocaccio stock was estimated to be at 36.8 percent of its unfished biomass in 2015. The OFL of 2,013 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 1,924 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The 741 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2022 and an SPR harvest rate of 77.7 percent. 15.4 mt is deducted from the ACL to accommodate the incidental open access fishery (0.8 mt), EFP catch (10 mt) and research catch (4.6 mt), resulting in a fishery HG of 725.6 mt. The California recreational fishery has an HG of 305.5 mt.

[d] Cowcod. A stock assessment for the Conception Area was conducted in 2013 and the stock was estimated to be at 33.9 percent of its unfished biomass in 2013. The Conception Area OFL of 59 mt is projected in the 2013 rebuilding analysis using an F_{MSY} proxy of $F_{50\%}$. The OFL contribution of 12 mt for the unassessed portion of the stock in the Monterey area is based on depletion-based stock reduction analysis. The OFLs for the Monterey and Conception areas were summed to derive the south of 40deg;10′ N lat. OFL of 71 mt. The ABC for the area south of 40deg;10′ N lat. is 64 mt. The assessed portion of the stock in the Conception Area is considered category 2, with a Conception area contribution to the ABC of 54 mt, which is an 8.7 percent reduction from the Conception area OFL ($\sigma = 0.72/P^* = 0.45$). The unassessed portion of the stock in the Monterey area is considered a category 3 stock, with a contribution to the ABC of 10 mt, which is a 16.6 percent reduction from the Monterey area OFL ($\sigma = 1.44/P^* = 0.45$). A single ACL of 10 mt is being set for both areas combined. The ACL of 10 mt is based on the rebuilding plan with a target year to rebuild of 2020 and an SPR harvest rate of 82.7 percent, which is equivalent to an exploitation rate (catch over age 11+ biomass) of 0.007. 2 mt is deducted from the ACL to accommodate the incidental open access fishery (less than 0.1 mt), EFP fishing (less than 0.1 mt) and research activity (2 mt), resulting in a fishery HG of 8 mt. Any additional mortality in research activities will be deducted from the ACL. A single ACT of 4 mt is being set for both areas combined.

[e] Darkblotched rockfish. A 2015 stock assessment estimated the stock to be at 39 percent of its unfished biomass in 2015. The OFL of 683 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 653 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC, as the stock is projected to be above its target biomass of $B_{40\%}$ in 2017. 77.3 mt is deducted from the ACL to accommodate the Tribal fishery (0.2 mt), the incidental open access fishery (24.5 mt), EFP catch (0.1 mt), research catch (2.5 mt) and an additional deduction for unforeseen catch events (50 mt), resulting in a fishery HG of 575.8 mt.

[f] Pacific ocean perch. A stock assessment was conducted in 2011 and the stock was estimated to be at 19.1 percent of its unfished biomass in 2011. The OFL of 984 mt for the area north of 40deg;10′ N lat. is based on an updated catch-only projection of the 2011 rebuilding analysis using an $F_{50\%}$ F_{MSY} proxy. The ABC of 941 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) as it is a category 1 stock. The ACL is based on the current rebuilding plan with a target year to rebuild of 2051 and a constant catch amount of 281 mt in 2017 and 2018, followed in 2019 and beyond by ACLs based on an SPR harvest rate of 86.4 percent. 49.4 mt is deducted from the ACL to accommodate the Tribal fishery (9.2 mt), the incidental open access fishery (10 mt), research catch (5.2 mt) and an additional deduction for unforeseen catch events (25 mt), resulting in a fishery HG of 231.6 mt.

[g] Yelloweye rockfish. A stock assessment update was conducted in 2011. The stock was estimated to be at 21.4 percent of its unfished biomass in 2011. The 58 mt coastwide OFL is based on a catch-only update of the 2011 stock assessment, assuming actual catches since 2011 and using an F_{MSY} proxy of $F_{50\%}$. The ABC of 48 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) as it is a category 2 stock. The 20 mt ACL is based on the current rebuilding plan with a target year to rebuild of 2074 and an SPR harvest rate of 76.0 percent. 6 mt is deducted from the ACL to accommodate the Tribal fishery (2.3 mt), the incidental open access fishery (0.4 mt), EFP catch (less than 0.1 mt) and research catch (3.27 mt) resulting in a fishery HG of 14 mt. Recreational HGs are: 3.3 mt (Washington); 3 mt (Oregon); and 3.9 mt (California).

[h] Arrowtooth flounder. The arrowtooth flounder stock was last assessed in 2007 and was estimated to be at 79 percent of its unfished biomass in 2007. The OFL of 16,498 mt is derived from a catch-only update of the 2007 assessment assuming actual catches since 2007 and using an $F_{30\%}$ F_{MSY} proxy. The ABC of 13,743 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) as it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 2,098.1 mt is deducted from the ACL to accommodate the Tribal fishery (2,041 mt), the incidental open access fishery (40.8 mt), and research catch (16.4 mt), resulting in a fishery HG of 11,644.9 mt.

[i] Big skate. The OFL of 541 mt is based on an estimate of trawl survey biomass and natural mortality. The ABC of 494 mt is a 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) as it is a category 2 stock. The ACL is set equal to the ABC. 57.4 mt is deducted from the ACL to accommodate the Tribal fishery (15 mt), the incidental open access fishery (38.4 mt), and research catch (4 mt), resulting in a fishery HG of 436.6 mt.

[j] Black rockfish (California). A 2015 stock assessment estimated the stock to be at 33 percent of its unfished biomass in 2015. The OFL of 347 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 332 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is projected to be above its target biomass of $B_{40\%}$ in 2018. 1 mt is deducted from the ACL for EFP catch, resulting in a fishery HG of 331 mt.

[k] Black rockfish (Oregon). A 2015 stock assessment estimated the stock to be at 60 percent of its unfished biomass in 2015. The OFL of 570 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 520 mt is an 8.7 percent reduction from the OFL (σ = 0.72/P* = 0.45) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 0.6 mt is deducted from the ACL to accommodate the incidental open access fishery, resulting in a fishery HG of 519.4 mt.

[l] Black rockfish (Washington). A 2015 stock assessment estimated the stock to be at 43 percent of its unfished biomass in 2015. The OFL of 315 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 301 mt is a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 18 mt is deducted from the ACL to accommodate the Tribal fishery, resulting in a fishery HG of 283 mt.

[m] Blackgill rockfish. Blackgill rockfish contributes to the harvest specifications for the Minor Slope Rockfish South complex. See footnote pp.

[n] Cabezon (California). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off California was estimated to be at 48.3 percent of its unfished biomass in 2009. The OFL of 156 mt is calculated using an F_{MSY}proxy of $F_{50\%}$. The ABC of 149 mt is based on a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 0.3 mt is deducted from the ACL to accommodate the incidental open access fishery (0.3 mt), resulting in a fishery HG of 148.7 mt.

[o] Cabezon (Oregon). A cabezon stock assessment was conducted in 2009. The cabezon spawning biomass in waters off Oregon was estimated to be at 52 percent of its unfished biomass in 2009. The OFL of 49 mt is calculated using an F_{MSY}proxy of $F_{45\%}$. The ABC of 47 mt is based on a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 species. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is also equal to the ACL of 47 mt.

[p] California scorpionfish. A California scorpionfish assessment was conducted in 2005 and was estimated to be at 79.8 percent of its unfished biomass in 2005. The OFL of 278 mt is based on projections from a catch-only update of the 2005 assessment assuming actual catches since 2005 and using an F_{MSY} harvest rate proxy of $F_{50\%}$. The ABC of 254 mt is an 8.7 percent reduction from the OFL (σ = 0.72/P* = 0.45) because it is a category 2 stock. The ACL is set at a constant catch amount of 150 mt. 2.2 mt is deducted from the ACL to accommodate the incidental open access fishery (2 mt) and research catch (0.2 mt), resulting in a fishery HG of 147.8 mt. An ACT of 111 mt is established.

[q] Canary rockfish. A stock assessment was conducted in 2015 and the stock was estimated to be at 55.5 percent of its unfished biomass coastwide in 2015. The coastwide OFL of 1,596 mt is projected in the 2015 assessment using an F_{MSY}harvest rate proxy of $F_{50\%}$. The ABC of 1,526 mt is a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) as it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 59.4 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.2 mt), EFP catch (1 mt) and research catch (7.2 mt) resulting in a fishery HG of 1,466.6 mt. Recreational HGs are: 50 mt (Washington); 75 mt (Oregon); and 135 mt (California).

[r] Chilipepper. A coastwide update assessment of the chilipepper stock was conducted in 2015 and estimated to be at 64 percent of its unfished biomass in 2015. Chilipepper are managed with stock-specific harvest specifications south of 40deg;10′N lat. and within the Minor Shelf Rockfish complex north of 40deg;10′ N lat. Projected OFLs are stratified north and south of 40deg;10′ N lat. based on the average historical assessed area catch, which is 93 percent for the area south of 40deg;10′ N lat. and 7 percent for the area north of 40deg;10′ N lat. The OFL of 2,623 mt for the area south of 40deg;10′ N lat. is projected in the 2015 assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,507 mt is a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 45.9 mt is deducted from the ACL to accommodate the incidental open access fishery (5 mt), EFP fishing (30 mt), and research catch (10.9 mt), resulting in a fishery HG of 2,461.1 mt.

[s] Dover sole. A 2011 Dover sole assessment estimated the stock to be at 83.7 percent of its unfished biomass in 2011. The OFL of 90,282 mt is based on an updated catch-only projection from the 2011 stock assessment assuming actual catches since 2011 and using an F_{MSY} proxy of $F_{30\%}$. The ABC of 86,310 mt is a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 stock. The ACL could be set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. However, the ACL of 50,000 mt is set at a level below the ABC and higher than the maximum historical landed catch. 1,593.7 mt is deducted from the ACL to accommodate the Tribal fishery (1,497 mt), the incidental open access fishery (54.8 mt), and research catch (41.9 mt), resulting in a fishery HG of 48,406.3 mt.

[t] English sole. A 2013 stock assessment was conducted, which estimated the stock to be at 88 percent of its unfished biomass in 2013. The OFL of 8,255 mt is projected in the 2013 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 7,537 mt is an 8.7 percent reduction from the OFL (σ = 0.72/P* = 0.45) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 212.8 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (7 mt) and research catch (5.8 mt), resulting in a fishery HG of 7,324.2 mt.

[u] Lingcod north. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009.The OFL is based on an updated catch-only projection from the 2009 assessment assuming actual catches since 2009 and using an F_{MSY} proxy of $F_{45\%}$. The OFL is apportioned by adding 48 percent of the OFL from California, resulting in an OFL of 3,310 mt for the area north of 40deg;10′ N lat. The ABC of 3,110 mt is based on a 4.4 percent reduction (σ = 0.36/P* = 0.45) from the OFL contribution for the area north of 42° N lat. because it is a category 1 stock, and an 8.7 percent reduction (σ = 0.72/P* = 0.45) from the OFL contribution for the area between 42° N lat. and 40deg;10′ N lat. because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 278.2 mt is deducted from the ACL for the Tribal fishery (250 mt), the incidental open access fishery (16 mt), EFP catch (0.5 mt) and research catch (11.7 mt), resulting in a fishery HG of 2,831.8 mt.

[v] Lingcod south. The 2009 lingcod assessment modeled two populations north and south of the California-Oregon border (42° N lat.). Both populations were healthy with stock depletion estimated at 62 and 74 percent for the north and south, respectively in 2009. The OFL is based on an updated catch-only projection of the 2009 stock assessment assuming actual catches since 2009 and using an F_{MSY} proxy of $F_{45\%}$. The OFL is apportioned by subtracting 48 percent of the California OFL, resulting in an OFL of 1,373 mt for the area south of 40deg;10′ N lat. The ABC of 1,144 mt is based on a 16.7 percent reduction from the OFL (σ = 0.72/P* = 0.40) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 9 mt is deducted from the ACL to accommodate the incidental open access fishery (6.9 mt), EFP fishing (1 mt), and research catch (1.1 mt), resulting in a fishery HG of 1,135 mt.

[w] Longnose skate. A stock assessment was conducted in 2007 and the stock was estimated to be at 66 percent of its unfished biomass. The OFL of 2,526 mt is derived from the 2007 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 2,415 mt is a 4.4 percent reduction from the OFL (σ = 0.36/P* = 0.45) because it is a category 1 stock. The ACL of 2,000 mt is a fixed harvest level that provides greater access to the stock and is less than the ABC. 147 mt is deducted from the ACL to accommodate the Tribal fishery (130 mt), incidental open access fishery (3.8 mt), and research catch (13.2 mt), resulting in a fishery HG of 1,853 mt.

[x] Longspine thornyhead. A 2013 longspine thornyhead coastwide stock assessment estimated the stock to be at 75 percent of its unfished biomass in 2013. A coastwide OFL of 4,339 mt is projected in the 2013 stock assessment using an $F_{50\%}F_{MSY}$ proxy. The coastwide ABC of 3,614 mt is a 16.7 percent reduction from the OFL (σ = 0.72/P* = 0.40) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N lat., the ACL is 2,747 mt, and is 76 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 46.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (3.3 mt), and research catch (13.5 mt), resulting in a fishery HG of 2,700.2 mt. For that portion of the stock south of 34°27′ N lat. the ACL is 867 mt and is 24 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 3.2 mt is deducted from the ACL to accommodate the incidental open access fishery (1.8 mt), and research catch (1.4 mt), resulting in a fishery HG of 863.8 mt.

[y] Pacific cod. The 3,200 mt OFL is based on the maximum level of historic landings. The ABC of 2,221 mt is a 30.6 percent reduction from the OFL (σ = 1.44/P* = 0.40) as it is a category 3 stock. The 1,600 mt ACL is the OFL reduced by 50 percent as a precautionary adjustment. 509 mt is deducted from the ACL to accommodate the Tribal fishery (500 mt), research catch (7 mt), and the incidental open access fishery (2 mt), resulting in a fishery HG of 1,091 mt.

[z] Pacific whiting. The coastwide stock assessment was published in 2018 and estimated the spawning stock to be at 66.7 percent of its unfished biomass. The 2018 OFL of 725,984 mt is based on the 2018 assessment with an $F_{40\%}$ F_{MSY} proxy. The 2018 coastwide, unadjusted Total Allowable Catch (TAC) of 517,775 mt is based on the 2018 stock assessment. The U.S. TAC is 73.88 percent of the coastwide unadjusted TAC. Up to 15 percent of each party's unadjusted 2017 TAC (58,901 mt for the U.S. and 20,824 mt for Canada) is added to each party's 2018 unadjusted TAC, resulting in a U.S. adjusted 2018 TAC of 441,433 mt. From the adjusted U.S. TAC, 77,251 mt is deducted to accommodate the Tribal fishery, and 1,500 mt is deducted to accommodate research and bycatch in other fisheries, resulting in a fishery HG of 362,682 mt. The TAC for Pacific whiting is established under the provisions of the Agreement with Canada on Pacific Hake/Whiting and the Pacific Whiting Act of 2006, 16 U.S.C. 7001–7010, and the international exception applies. Therefore, no ABC or ACL values are provided for Pacific whiting.

[aa] Petrale sole. A 2015 stock assessment update was conducted, which estimated the stock to be at 31 percent of its unfished biomass in 2015. The OFL of 3,152 mt is projected in the 2015 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 3,013 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{25\%}$. 240.9 mt is deducted from the ACL to accommodate the Tribal fishery (220 mt), the incidental open access fishery (3.2 mt) and research catch (17.7 mt), resulting in a fishery HG of 2,772.1 mt.

[bb] Sablefish north. A coastwide sablefish stock assessment update was conducted in 2015. The coastwide sablefish biomass was estimated to be at 33 percent of its unfished biomass in 2015. The coastwide OFL of 8,329 mt is projected in the 2015 stock assessment using an F_{MSY} proxy of $F_{45\%}$. The ABC of 7,604 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.40$). The 40ndash;10 adjustment is applied to the ABC to derive a coastwide ACL value because the stock is in the precautionary zone. This coastwide ACL value is not specified in regulations. The coastwide ACL value is apportioned north and south of 36° N lat., using the 2003–2014 average estimated swept area biomass from the NMFS NWFSC trawl survey, with 73.8 percent apportioned north of 36° N lat. and 26.2 percent apportioned south of 36° N lat. The northern ACL is 5,475 mt and is reduced by 548 mt for the Tribal allocation (10 percent of the ACL north of 36° N lat.). The 548 mt Tribal allocation is reduced by 1.5 percent to account for discard mortality. Detailed sablefish allocations are shown in Table 2c.

[cc] Sablefish south. The ACL for the area south of 36° N lat. is 1,944 mt (26.2 percent of the calculated coastwide ACL value). 5 mt is deducted from the ACL to accommodate the incidental open acrdedseescess fishery (2 mt) and research catch (3 mt), resulting in a fishery HG of 1,939 mt.

[dd] Shortbelly rockfish. A non-quantitative shortbelly rockfish assessment was conducted in 2007. The spawning stock biomass of shortbelly rockfish was estimated to be 67 percent of its unfished biomass in 2005. The OFL of 6,950 mt is based on the estimated MSY in the 2007 stock assessment. The ABC of 5,789 mt is a 16.7 percent reduction of the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. The 500 mt ACL is set to accommodate incidental catch when fishing for co-occurring healthy stocks and in recognition of the stock's importance as a forage species in the California Current ecosystem. 10.9 mt is deducted from the ACL to accommodate the incidental open access fishery (8.9 mt) and research catch (2 mt), resulting in a fishery HG of 489.1 mt.

[ee] Shortspine thornyhead. A 2013 coastwide shortspine thornyhead stock assessment estimated the stock to be at 74.2 percent of its unfished biomass in 2013. A coastwide OFL of 3,116 mt is projected in the 2013 stock assessment using an $F_{50\%}F_{MSY}$ proxy. The coastwide ABC of 2,596 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. For the portion of the stock that is north of 34°27′ N lat., the ACL is 1,698 mt. The northern ACL is 65.4 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 59 mt is deducted from the ACL to accommodate the Tribal fishery (50 mt), the incidental open access fishery (1.8 mt), and research catch (7.2 mt), resulting in a fishery HG of 1,639 mt for the area north of 34°27′ N lat. For that portion of the stock south of 34°27′ N lat. the ACL is 898 mt. The southern ACL is 34.6 percent of the coastwide ABC based on the average swept-area biomass estimates (2003–2012) from the NMFS NWFSC trawl survey. 42.3 mt is deducted from the ACL to accommodate the incidental open access fishery (41.3 mt) and research catch (1 mt), resulting in a fishery HG of 855.7 mt for the area south of 34°27′ N lat.

[ff] Spiny dogfish. A coastwide spiny dogfish stock assessment was conducted in 2011. The coastwide spiny dogfish biomass was estimated to be at 63 percent of its unfished biomass in 2011. The coastwide OFL of 2,500 mt is derived from the 2011 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide ABC of 2,083 mt is a 16.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.40$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 338 mt is deducted from the ACL to accommodate the Tribal fishery (275 mt), the incidental open access fishery (49.5 mt), EFP catch (1 mt), and research catch (12.5 mt), resulting in a fishery HG of 1,745 mt.

[gg] Splitnose rockfish. A coastwide splitnose rockfish assessment was conducted in 2009 that estimated the stock to be at 66 percent of its unfished biomass in 2009. Splitnose rockfish in the north is managed in the Minor Slope Rockfish complex and with stock-specific harvest specifications south of 40deg;10′ N lat. The coastwide OFL is projected in the 2009 assessment using an F_{MSY} proxy of $F_{50\%}$. The coastwide OFL is apportioned north and south of 40deg;10′ N lat. based on the average 1916–2008 assessed area catch resulting in 64.2 percent of the coastwide OFL apportioned south of 40deg;10′ N lat., and 35.8 percent apportioned for the contribution of splitnose rockfish to the northern Minor Slope Rockfish complex. The southern OFL of 1,842 mt results from the apportionment described above. The southern ABC of 1,761 mt is a 4.4 percent reduction from the southern OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is estimated to be above its target biomass of $B_{40\%}$. 10.7 mt is deducted from the ACL to accommodate the incidental open access fishery (0.2 mt), research catch (9 mt) and EFP catch (1.5 mt), resulting in a fishery HG of 1,750.3 mt.

[hh] Starry flounder. The stock was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent in Washington and Oregon, and 62 percent in California). The coastwide OFL of 1,847 mt is set equal to the 2016 OFL, which was derived from the 2005 assessment using an F_{MSY} proxy of $F_{30\%}$. The ABC of 1,282 mt is a 30.6 percent reduction from the OFL ($\sigma = 1.44/P^* = 0.40$) because it is a category 3 stock. The ACL is set equal to the ABC because the stock was estimated to be above its target biomass of $B_{25\%}$ in 2018. 10.3 mt is deducted from the ACL to accommodate the Tribal fishery (2 mt), and the incidental open access fishery (8.3 mt), resulting in a fishery HG of 1,271.7 mt.

[ii] Widow rockfish. The widow rockfish stock was assessed in 2015 and was estimated to be at 75 percent of its unfished biomass in 2015. The OFL of 13,237 mt is projected in the 2015 stock assessment using the $F_{50\%}$ F_{MSY} proxy. The ABC of 12,655 mt is a 4.4 percent reduction from the OFL ($\sigma = 0.36/P^* = 0.45$) because it is a category 1 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 217.7 mt is deducted from the ACL to accommodate the Tribal fishery (200 mt), the incidental open access fishery (0.5 mt), EFP catch (9 mt) and research catch (8.2 mt), resulting in a fishery HG of 12,437.3 mt.

[jj] Yellowtail rockfish. A 2013 yellowtail rockfish stock assessment was conducted for the portion of the population north of 40deg;10′ N. lat. The estimated stock depletion is 67 percent of its unfished biomass in 2013. The OFL of 6,574 mt is projected in the 2013 stock assessment using an F_{MSY} proxy of $F_{50\%}$. The ABC of 6,002 mt is an 8.7 percent reduction from the OFL ($\sigma = 0.72/P^* = 0.45$) because it is a category 2 stock. The ACL is set equal to the ABC because the stock is above its target biomass of $B_{40\%}$. 1,030 mt is deducted from the ACL to accommodate the Tribal fishery (1,000 mt), the incidental open access fishery (3.4 mt), EFP catch (10 mt) and research catch (16.6 mt), resulting in a fishery HG of 4,972.1 mt.

[kk] Minor Nearshore Rockfish north. The OFL for Minor Nearshore Rockfish north of 40deg;10′ N lat. of 119 mt is the sum of the OFL contributions for the component species managed in the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.72 for category 2 stocks (blue/deacon rockfish in California, brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 105 mt is the summed contribution of the ABCs for the component species. The ACL of 105 mt is the sum of contributing ABCs. 1.8 mt is deducted from the ACL to accommodate the Tribal fishery (1.5 mt), and the incidental open access fishery (0.3 mt), resulting in a fishery HG of 103.2 mt. Between 40deg;10′ N lat. and 42° N lat. the Minor Nearshore Rockfish complex north has a harvest guideline of 40.2 mt. Blue/deacon rockfish south of 42° N lat. has a species-specific HG, described in footnote pp.

[ll] Minor Shelf Rockfish north. The OFL for Minor Shelf Rockfish north of 40deg;10′ N lat. of 2,302 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the minor rockfish complexes are based on a sigma value of 0.36 for a category 1 stock (chilipepper), a sigma value of 0.72 for category 2 stocks (greenspotted rockfish between 40deg;10′ and 42° N lat. and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 2,048 mt is the summed contribution of the ABCs for the component species. The ACL of 2,047 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40ndash;10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 83.8 mt is deducted from the ACL to accommodate the Tribal fishery (30 mt), the incidental open access fishery (26 mt), EFP catch (3 mt), and research catch (24.8 mt), resulting in a fishery HG of 1,963.2 mt.

[mm] Minor Slope Rockfish north. The OFL for Minor Slope Rockfish north of 40deg;10′ N. lat. of 1,896 mt is the sum of the OFL contributions for the component species within the complex. The ABCs for the Minor Slope Rockfish complexes are based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.36 for the other category 1 stock (splitnose rockfish), a sigma value of 0.72 for category 2 stocks (rougheye rockfish, blackspotted rockfish, and sharpchin rockfish), and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated spawning biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 1,754 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all the assessed component stocks (rougheye rockfish, blackspotted rockfish, sharpchin rockfish, and splitnose rockfish) are above the target biomass of $B_{40\%}$. 65.1 mt is deducted from the ACL to accommodate the Tribal fishery (36 mt), the incidental open access fishery (18.6 mt), EFP catch (1 mt), and research catch (9.5 mt), resulting in a fishery HG of 1,688.9 mt.

[nn] Minor Nearshore Rockfish south. The OFL for the Minor Nearshore Rockfish complex south of 40deg;10′ N lat. of 1,344 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Nearshore Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (blue/deacon rockfish north of 34°27′ N lat., brown rockfish, China rockfish, and copper rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,180 mt is the summed contribution of the ABCs for the component species. The ACL of 1,179 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution for China rockfish where the 40ndash;10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 4.1 mt is deducted from the ACL to accommodate the incidental open access fishery (1.4 mt) and research catch (2.7 mt), resulting in a fishery HG of 1,174.9 mt. Blue/deacon rockfish south of 42° N lat. has a species-specific HG set equal to the 40ndash;10-adjusted ACL for the portion of the stock north of 34°27′ N lat. (250.3 mt) plus the ABC contribution for the unassessed portion of the stock south of 34°27′ N lat. (60.8 mt). The California (*i.e.,* south of 42° N lat.) blue/deacon rockfish HG is 311.1 mt.

[oo] Minor Shelf Rockfish south. The OFL for the Minor Shelf Rockfish complex south of 40deg;10′ N lat. of 1,918 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Shelf Rockfish complex is based on a sigma value of 0.72 for category 2 stocks (*i.e.,* greenspotted and greenstriped rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. The resulting ABC of 1,625 mt is the summed contribution of the ABCs for the component species. The ACL of 1,624 mt is the sum of contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of greenspotted rockfish in California where the 40ndash;10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 47.2 mt is deducted from the ACL to accommodate the incidental open access fishery (8.6 mt), EFP catch (30 mt), and research catch (8.6 mt), resulting in a fishery HG of 1,576.8 mt.

[pp] Minor Slope Rockfish south. The OFL of 829 mt is the sum of the OFL contributions for the component species within the complex. The ABC for the southern Minor Slope Rockfish complex is based on a sigma value of 0.39 for aurora rockfish, a sigma value of 0.72 for category 2 stocks (blackgill rockfish, rougheye rockfish, blackspotted rockfish, and sharpchin rockfish) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.39 was calculated for aurora rockfish because the variance in estimated biomass was greater than the 0.36 used as a proxy for other category 1 stocks. The resulting ABC of 719 mt is the summed contribution of the ABCs for the component species. The ACL of 709 mt is the sum of the contributing ABCs of healthy assessed stocks and unassessed stocks, plus the ACL contribution of blackgill rockfish where the 40ndash;10 adjustment was applied to the ABC contribution for this stock because it is in the precautionary zone. 20.2 mt is deducted from the ACL to accommodate the incidental open access fishery (17.2 mt), EFP catch (1 mt), and research catch (2 mt), resulting in a fishery HG of 688.8 mt. Blackgill rockfish has a stock-specific HG for the entire groundfish fishery south of 40deg;10′ N lat. set equal to the species' contribution to the 40ndash;10-adjusted ACL. Harvest of blackgill rockfish in all groundfish fisheries counts against this HG of 122.4 mt. Nontrawl fisheries are subject to a blackgill rockfish HG of 45.3 mt.

[qq] Other Flatfish. The Other Flatfish complex is comprised of flatfish species managed in the PCGFMP that are not managed with species-specific OFLs/ABCs/ACLs. Most of the species in the Other Flatfish complex are unassessed and include: Butter sole, curlfin sole, flathead sole, Pacific sanddab, rock sole, sand sole, and rex sole. The Other Flatfish OFL of 9,690 mt is based on the sum of the OFL contributions of the component stocks. The ABC of 7,281 mt is based on a sigma value of 0.72 for a category 2 stock (rex sole) and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.40. The ACL is set equal to the ABC. The ACL is set equal to the ABC because all of the assessed stocks (*i.e.,* Pacific sanddabs and rex sole) were above their target biomass of $B_{25\%}$. 204 mt is deducted from the ACL to accommodate the Tribal fishery (60 mt), the incidental open access fishery 125 mt), and research catch (19 mt), resulting in a fishery HG of 7,077 mt.

[rr] Other Fish. The Other Fish complex is comprised of kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The 2015 assessment for the kelp greenling stock off of Oregon projected an estimated depletion of 80 percent. All other stocks are unassessed. The OFL of 501 mt is the sum of the OFL contributions for kelp greenling coastwide, cabezon off Washington, and leopard shark coastwide. The ABC for the Other Fish complex is based on a sigma value of 0.44 for kelp greenling off Oregon and a sigma value of 1.44 for category 3 stocks (all others) with a P* of 0.45. A unique sigma of 0.44 was calculated for kelp greenling off Oregon because the variance in estimated spawning biomass was greater than the 0.36 sigma used as a proxy for other category 1 stocks. The resulting ABC of 441 mt is the summed contribution of the ABCs for the component species. The ACL is set equal to the ABC because all of the assessed stocks (kelp greenling off Oregon) were above their target biomass of $B_{40\%}$. There are no deductions from the ACL so the fishery HG is equal to the ACL of 441 mt.

■ 4. Table 2b to part 660, subpart C, is revised to read as follows:

TABLE 2b TO PART 660, SUBPART C—2018, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP

[Weight in metric tons]

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			Percent	Mt	Percent	Mt
BOCACCIO [a]	S of 40°10′ N lat	725.6	39	283.3	61	442.3
COWCOD [a b]	S of 40°10′ N lat	4.0	36	1.4	64	2.6
DARKBLOTCHED ROCKFISH [c].	Coastwide	575.8	95	547.0	5	28.8
PACIFIC OCEAN PERCH [d]	N of 40°10′ N lat	231.6	95	220.0	5	11.6
YELLOWEYE ROCKFISH [a]	Coastwide	14.0	NA	1.1	NA	12.9
Arrowtooth flounder	Coastwide	11,644.9	95	11,062.6	5	582.2
Big skate [a]	Coastwide	436.6	95	414.8	5	21.8
Canary rockfish [a e]	Coastwide	1,466.6	NA	1,060.1	NA	406.5
Chilipepper	S of 40°10′ N lat	2,461.1	75	1,845.8	25	615.3
Dover sole	Coastwide	48,406.3	95	45,986.0	5	2,420.3
English sole	Coastwide	7,324.2	95	6,958.0	5	366.2
Lingcod	N of 40°10′ N lat	2,831.8	45	1,274.3	55	1,557.5
Lingcod	S of 40°10′ N lat	1,135.0	45	510.8	55	624.3
Longnose skate [a]	Coastwide	1,853.0	90	1,667.7	10	185.3
Longspine thornyhead	N of 34°27′ N lat	2,700.2	95	2,565.2	5	135.0

TABLE 2b TO PART 660, SUBPART C—2018, AND BEYOND, ALLOCATIONS BY SPECIES OR SPECIES GROUP—Continued

[Weight in metric tons]

Species	Area	Fishery HG or ACT	Trawl		Non-trawl	
			Percent	Mt	Percent	Mt
Pacific cod	Coastwide	1,091.0	95	1,036.4	5	54.5
Pacific whiting [g]	Coastwide	362,682.0	100	362,682.0	0	0.0
Petrale sole	Coastwide	2,772.1	95	2,633.5	5	138.6
Sablefish	N of 36° N lat	N/A	See Table 2c			
Sablefish	S of 36° N lat	1,939.0	42	814.4	58	1,124.6
Shortspine thornyhead	N of 34°27′ N lat	1,639.0	95	1,557.0	5	81.9
Shortspine thornyhead	S of 34°27′ N lat	855.7	NA	50.0	NA	805.7
Splitnose rockfish	S of 40°10′ N lat	1,750.3	95	1,662.8	5	87.5
Starry flounder	Coastwide	1,271.7	50	635.9	50	635.9
Widow rockfish [f]	Coastwide	12,437.3	91	11,317.9	9	1,119.4
Yellowtail rockfish	N of 40°10′ N lat	4,972.1	88	4,375.4	12	596.6
Minor Shelf Rockfish [a]	N of 40°10′ N lat	1,963.2	60	1,181.8	40	781.4
Minor Slope Rockfish	N of 40°10′ N lat	1,688.9	81	1,368.0	19	320.9
Minor Shelf Rockfish [a]	S of 40°10′ N lat	1,576.8	12	192.37	88	1,384.4
Minor Slope Rockfish	S of 40°10′ N lat	688.8	63	433.9	37	254.9
Other Flatfish	Coastwide	7,077.0	90	6,369.3	10	707.7

[a] Allocations decided through the biennial specification process.

[b] The cowcod fishery harvest guideline is further reduced to an ACT of 4.0 mt.

[c] Consistent with regulations at § 660.55(c), 9 percent (49.2 mt) of the total trawl allocation for darkblotched rockfish is allocated to the Pacific whiting fishery, as follows: 20.7 mt for the Shorebased IFQ Program, 11.8 mt is managed as a set-aside for the MS sector, and 16.7 mt is managed as a set-aside for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

[d] Consistent with regulations at § 660.55(c), 17 percent (37.4 mt) of the total trawl allocation for POP is allocated to the Pacific whiting fishery, as follows: 15.7 mt for the Shorebased IFQ Program, 9.0 mt is managed as a set-aside the MS sector, and 12.7 mt is managed as a set-aside for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

[e] Canary rockfish is allocated approximately 72 percent to trawl and 28 percent to non-trawl. 46 mt of the total trawl allocation of canary rockfish is allocated to the MS and C/P sectors, as follows: 30 mt for the MS sector, and 16 mt for the C/P sector.

[f] Consistent with regulations at § 660.55(c), 10 percent (1,131.8 mt) of the total trawl allocation for widow rockfish is allocated to the Pacific whiting fishery, as follows: 475.4 mt for the Shorebased IFQ Program, 271.6 mt for the MS sector, and 384.8 mt for the C/P sector. The tonnage calculated here for the Pacific whiting IFQ fishery contributes to the total shorebased trawl allocation, which is found at § 660.140(d)(1)(ii)(D).

[g] Consistent with regulations at § 660.55(i)(2), the commercial harvest guideline for Pacific whiting is allocated as follows: 34 percent (123,312 mt) for the C/P Coop Program; 24 percent (87,044 mt) for the MS Coop Program; and 42 percent (152,326.5 mt) for the Shorebased IFQ Program. No more than 5 percent of the Shore based IFQ Program allocation (7,616 mt) may be taken and retained south of 42° N lat. before the start of the primary Pacific whiting season north of 42° N lat.

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■ 5. In § 660.140, revise paragraph (d)(1)(ii)(D) to read as follows:

§ 660.140 Shorebased IFQ Program.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(D) For the trawl fishery, NMFS will issue QP based on the following shorebased trawl allocations:

IFQ species	Area	2017 shorebased trawl allocation (mt)	2018 shorebased trawl allocation (mt)
Arrowtooth flounder	Coastwide	11,050.6	10,992.6
BOCACCIO	South of 40°10′ N lat	302.4	283.3
Canary rockfish	Coastwide	1,014.1	1,014.1
Chilipepper	South of 40°10′ N lat	1,920.8	1,845.8
COWCOD	South of 40°10′ N lat	1.40	1.40
DARKBLOTCHED ROCKFISH	Coastwide	507.6	518.4
Dover sole	Coastwide	45,981.0	45,981.0
English sole	Coastwide	9,258.6	6,953.0
Lingcod	North of 40°10′ N lat	1,359.7	1,259.32
Lingcod	South of 40°10′ N lat	558.9	510.75
Longspine thornyhead	North of 34°27′ N lat	2,699.8	2,560.2
Minor Shelf Rockfish complex	North of 40°10′ N lat	1,148.1	1,146.8
Minor Shelf Rockfish complex	South of 40°10′ N lat	192.2	192.4
Minor Slope Rockfish complex	North of 40°10′ N lat	1,268.8	1,268.0
Minor Slope Rockfish complex	South of 40°10′ N lat	432.7	433.9
Other Flatfish complex	Coastwide	7,455.4	6,349.3
Pacific cod	Coastwide	1,031.4	1,031.4
PACIFIC OCEAN PERCH	North of 40°10′ N lat	198.3	198.3
Pacific whiting	Coastwide	152,326.5	152,326.5
Petrale sole	Coastwide	2,745.3	2,628.5
Sablefish	North of 36° N lat	2,416.4	2,521.9
Sablefish	South of 36° N lat	780.8	814.4

IFQ species	Area	2017 shorebased trawl allocation (mt)	2018 shorebased trawl allocation (mt)
Shortspine thornyhead	North of 34°27′ N lat	1551.3	1,537.0
Shortspine thornyhead	South of 34°27′ N lat	50.0	50.0
Splitnose rockfish	South of 40°10′ N lat	1661.8	1,662.8
Starry flounder	Coastwide	630.9	630.9
Widow rockfish	Coastwide	11,392.7	10,661.5
YELLOWEYE ROCKFISH	Coastwide	1.10	1.10
Yellowtail rockfish	North of 40°10′ N lat	4,246.1	4,075.4

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 170816769–8162–02]

RIN 0648–XG225

Fisheries of the Exclusive Economic Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Temporary rule; opening.

SUMMARY: NMFS is opening directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary to fully use the 2018 groundfish total allowable catch specified for the species comprising the deep-water species category in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), May 15, 2018, through 1200 hours, A.l.t., July 1, 2018.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., May 29, 2018.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2017–0107 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0107,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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

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

NMFS prohibited directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the GOA, effective 1200 hours, A.l.t., April 23, 2018 (83 FR 18235, April 26, 2018) under § 679.21(d)(6)(i). That action was necessary because the second seasonal apportionment of the Pacific halibut catch (PSC) allowance specified for the deep-water species fishery in the GOA was reached. The species and species groups that comprise the deep-water species fishery include sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder.

Regulations at § 679.21(d)(4)(iii)(D) require NMFS to combine management of the available trawl halibut PSC limits in the second season (April 1 through July 1) deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 of each year. The combined second seasonal apportionment of Pacific halibut PSC limit is 702 metric tons (mt). This includes the deep-water and shallow water Pacific halibut PSC limits carried forward from the first seasonal apportionments (January 20 through April 1). The deep-water and shallow-water Pacific halibut PSC limit apportionments were established by the final 2018 and 2019 harvest specifications for groundfish of the GOA (83 FR 8768, March 1, 2018).

As of May 9, 2018, NMFS has determined that there is approximately 411 mt of the trawl Pacific halibut PSC limit remaining in the deep-water fishery and shallow-water fishery second seasonal apportionments. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2018 groundfish total allowable catch available in the deep-water species fishery category NMFS is terminating the previous closure and is reopening directed fishing for species comprising the deep-water fishery category in the GOA. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The current harvest of Pacific halibut PSC in the deep-water species trawl fishery of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from

responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for species comprising the deep-water species fishery category in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 9, 2018.

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

Without this inseason adjustment, NMFS could not allow the trawl deep-water species fishery in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until May 29, 2018.

This action is required by §§ 679.21 and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: May 10, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–10326 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 94
Tuesday, May 15, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 37

[NRC–2015–0019]

RIN 3150–AJ56

Cyber Security for Byproduct Materials Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Discontinuation of rulemaking activity.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is discontinuing the rulemaking activity that would have developed cyber security requirements for byproduct materials licensees possessing risk-significant quantities of radioactive materials. The purpose of this action is to inform members of the public of the discontinuation of the rulemaking activity and to provide a brief discussion of the NRC's decision. The rulemaking activity will no longer be reported in the NRC's portion of the Unified Agenda of Regulatory and Deregulatory Actions (the Unified Agenda).

DATES: As of May 15, 2018, the rulemaking activity discussed in this document is discontinued.

ADDRESSES: Please refer to Docket ID NRC–2015–0019 when contacting the NRC about the availability of information regarding this action. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0019. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Vanessa Cox, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8342; email: *Vanessa.Cox@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC and Agreement States are responsible for overseeing and implementing the National Materials Program to enable the safe and secure use of radioactive materials licensed for commercial, industrial, academic, and medical uses. The program includes thousands of byproduct materials licensees in varying operating environments, ranging from small industrial radiography and well-logging businesses to large manufacturing facilities, universities, and medical facilities. The majority of the licensees that possess risk-significant quantities of radioactive materials are regulated by Agreement States. Risk-significant quantities of radioactive material are defined as those meeting the thresholds for Category 1 and Category 2 included in appendix A to part 37 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.''

In a Commission paper, SECY–12–0088, ''The Nuclear Regulatory Commission Cyber Security Roadmap,'' dated June 25, 2012 (ADAMS Accession No. ML12135A050), the NRC staff described its plan to evaluate the need for cyber security requirements for NRC and Agreement State licensees and facilities, including byproduct materials licensees. As described in that paper, the NRC staff planned to form a working group, with Agreement State participation, to develop self-assessment tools for licensees and conduct a limited number of site visits. Based on the results of these assessments and site visits, the working group intended to prepare a paper outlining potential actions for Commission consideration.

In July 2013, the NRC established the Byproduct Materials Cyber Security Working Group, comprised of headquarters and regional NRC staff and representation from the Organization of Agreement States. The purpose of the working group was to identify potential cyber security vulnerabilities among commercial, medical, industrial, and academic users of risk-significant radioactive materials and determine if the results warranted regulatory action. The working group worked with the NRC's Intelligence Liaison and Threat Assessment Branch, which regularly monitors the threats associated with cyber security and shares cyber threat information with licensees, as appropriate.

The working group identified four sets of digital assets that the NRC should evaluate with respect to cyber threat protection:

(1) Digital/microprocessor-based systems and devices that support the physical security of the licensee's facilities. These include access control systems, physical intrusion detection and alarm systems, video camera monitoring systems, digital video recorders, door alarms, motion sensors, keycard readers, and biometric scanners;

(2) Equipment and devices with software-based control, operation, and automation features, such as panoramic irradiators and gamma knives;

(3) Computers and systems used to maintain source inventories, audit data, and records necessary for compliance with security requirements and regulations; and

(4) Digital technology used to support incident response communications and coordination such as digital packet radio systems, digital repeater stations, and digital trunk radio systems.

On January 6, 2016, the NRC staff submitted a memorandum to the

Commission titled ''Staff Activities Related to the Evaluation of Materials Cyber Security Vulnerabilities'' (ADAMS Accession No. ML15201A509). This memorandum informed the Commission of the ongoing evaluation to determine the cyber security risk to each of the four sets of digital assets for risk-significant radioactive materials licensees, and described the two-pronged approach focused on information gathering and consequence analysis that was used.

As part of the information gathering effort, the NRC staff distributed a voluntary survey, ''Questionnaire on Cyber Security at Byproduct Materials Licensees'' (ADAMS Accession No. ML15246A306) on April 29, 2016, to all NRC and Agreement State licensees that possessed Category 1 and 2 quantities of radioactive materials. The purpose of the questionnaire was to identify what key digital assets existed at each licensee type, how they were connected to internal/external networks and the internet, and what technical and procedural security measures were in place for protection and operation of these systems and devices. The NRC staff also conducted outreach to stakeholders to encourage completion of the questionnaire, and site visits to manufacturers and panoramic irradiator licensees.

The consequence analysis was conducted in parallel with the information gathering effort, and evaluated the potential for onsite and offsite consequences that could occur if the availability, integrity, or confidentiality of data or systems associated with nuclear materials were compromised by a cyber attack.

Given the regulatory responsibilities of the U.S. Food and Drug Administration (FDA), the NRC limited its evaluation of the software systems used in medical applications to the systems related to the radiation safety and physical protection authority of the NRC. The NRC has a memorandum of understanding with the FDA that clarifies the respective roles of each agency in regulating the safe use of radiopharmaceuticals and sealed sources, and other medical devices containing radioactive material (ADAMS Accession No. ML023520399). Additional information on the FDA's activities, role, and expectations for the continued cyber security of medical devices can be found at *https://www.fda.gov/downloads/medicaldevices/digitalhealth/ucm544684.pdf.*

On February 28, 2017, the NRC staff provided an update to the Commission on the status of agency activities pertaining to cyber security at licensee facilities in a Commission paper, SECY–17–0034, ''Update to the U.S. Nuclear Regulatory Commission Cyber Security Roadmap'' (ADAMS Accession No. ML16354A258). The update noted the NRC staff's further consideration of cyber security requirements for radioactive materials licensees since the January 2016 memorandum. Additionally, the paper stated that the working group planned to complete its evaluation of the questionnaire responses, consequence analysis, and any follow-up communication with stakeholders and develop recommendations for a path forward.

Subsequently, the NRC completed its evaluation of cyber security requirements for byproduct materials licensees in October 2017.

The NRC staff concluded that byproduct materials licensees that possess risk-significant quantities of radioactive material do not rely solely on digital assets to ensure safety or physical protection. Rather, these licensees generally use a combination of measures, such as doors, locks, barriers, human resources, and operational processes, to ensure security, which reflects a defense-in-depth approach to physical protection and safety. As a result, the staff concluded that a compromise of any of the digital assets identified in the January 6, 2016, Commission memorandum would not result in a direct dispersal of risk-significant quantities of radioactive material, or exposure of individuals to radiation, without a concurrent and targeted breach of the physical protection measures in force for these licensees.

Therefore, the NRC staff determined that the current cyber security threat and potential consequences do not warrant regulatory action. However, the NRC staff determined that it would be prudent to issue an Information Notice (IN) to communicate effective practices for cyber security to byproduct materials licensees possessing risk-significant quantities of radioactive material. The IN will provide licensees with a better understanding of contemporary cyber security issues and strategies to protect digital assets (*e.g.,* computers, digital alarm systems), including those used to facilitate compliance with physical security requirements, such as those in 10 CFR part 37. The IN, which will reference existing cyber security guidance developed by the NRC's Office of Nuclear Reactor Regulation and other Federal agencies, will be issued later in 2018.

II. Conclusion

For the reasons discussed in this document, the NRC is discontinuing rulemaking activity to develop cyber security requirements for byproduct materials licensees possessing risk-significant quantities of radioactive materials. In the next edition of the Unified Agenda, the NRC will update the entry for this rulemaking activity and refer to this document to indicate that the rulemaking has been discontinued. This rulemaking activity will appear in the ''Completed Actions'' section of the next edition of the Unified Agenda, but will not appear in future editions. If the NRC decides to pursue similar or related rulemaking activities in the future, it will inform the public through a new rulemaking entry in the Unified Agenda.

Dated at Rockville, Maryland, this 10th day of May, 2018.

For the Nuclear Regulatory Commission.

Victor McCree,

Executive Director for Operations.

[FR Doc. 2018–10358 Filed 5–14–18; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0410; Product Identifier 2018–NM–030–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus

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 A350–941 airplanes. This proposed AD was prompted by an inspection on the production line that revealed evidence of paint peeling on the forward and aft cargo frame forks around the hook bolt hole. This proposed AD would require a detailed visual inspection for any deficiency of the frame forks around the hook bolt hole on certain forward and aft cargo doors and applicable corrective actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 29, 2018.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.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.

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–2018–0410; 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: Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

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–2018–0410; Product Identifier 2018–NM–030–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 AD 2018–0031, dated January 31, 2018 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A350–941 airplanes. The MCAI states:

> Following an inspection on the production line, paint peeling was found on forward and aft cargo door frame forks around the hook bolt hole. Subsequent investigations determined this had been caused by incorrect masking method during application of primer, top coat and Tartaric Sulfuric Anodizing (TSA) layer. As the cargo doors are located in an area with high corrosion sensitivity, where a surface protection with primer, top coat and TSA is specified, in case of paint peeling off, galvanic corrosion could develop.
>
> This condition, if not detected and corrected, could lead to cargo door failure, possibly resulting in decompression of the aeroplane and injury to occupants.
>
> To address this potential unsafe condition, Airbus identified the affected parts and issued the SB [Airbus Service Bulletin (SB) A350–52–P011, dated May 12, 2017] to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires a one-time detailed [visual] inspection (DET) of the affected parts [for discrepancies] and, depending on findings, accomplishment of applicable corrective action(s) [*i.e.,* restoration of the anti-corrosion protection of frame forks of affected parts].

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–2018–0410.

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus Service Bulletin A350–52–P011, dated May 12, 2017. This service information describes procedures for a one-time detailed visual inspection of the frame forks around the hook bolt hole on the forward and aft cargo door, and applicable corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 9 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
Inspection	Up to 9 work-hours × $85 per hour = $765.	$0	Up to $765	Up to $6,885.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Restoration	9 work-hours × $85 per hour = $765	$50	$815

According to the manufacturer, all 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):

Airbus: Docket No. FAA–2018–0410; Product Identifier 2018–NM–030–AD.

(a) Comments Due Date

We must receive comments by June 29, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A350–941 airplanes certificated in any category, all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD was prompted by an inspection on the production line that revealed evidence of paint peeling on the forward and aft cargo frame forks around the hook bolt hole. We are issuing this AD to address paint peeling on the forward and aft cargo doors that could develop into galvanic corrosion, which could lead to cargo door failure and possibly result in decompression of the airplane and injury to occupants.

(f) Compliance

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

(g) Definitions

(1) For the purpose of this AD, the affected parts are forward cargo doors, part number (P/N) WG102AGAAAAF and P/N WG102AKAAAAF, serial number (S/N) UH10007 through UH10022 inclusive, except S/N UH10009; and aft cargo doors P/N WH102AHAAAAC and P/N WH102ALAAAAC, S/N UH10008 through UH10022 inclusive.

(2) For the purpose of this AD, a serviceable forward cargo door or a serviceable aft cargo door is a part that is not identified as an affected part, or is a part identified as an affected part on which a detailed visual inspection specified in Airbus Service Bulletin A350–52–P011, dated May 12, 2017, has been done and there were no findings.

(h) Inspection

Within 36 months since the date of issuance of the original standard airworthiness certificate or date of issuance of the original export certificate of airworthiness, or within 90 days after the effective date of this AD, whichever occurs later, accomplish a detailed visual inspection of each affected part for any deficiency (*e.g.,* any paint peel-off of the hook bolt hole of the frame fork), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–52–P011, dated May 12, 2017.

(i) Corrective Actions

If, during any detailed visual inspection required by paragraph (h) of this AD, any deficiency is found, before next flight, restore the anti-corrosion protection of frame forks of the affected part, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A350–52–P011, dated May 12, 2017, except as required by paragraph (j) of this AD.

(j) Exceptions to Service Information Specifications

Where Airbus Service Bulletin A350–52–P011, dated May 12, 2017, specifies contacting Airbus, and specifies that action as RC: This AD requires repair using a method approved in accordance with the procedures specified in paragraph (l)(2) of this AD.

(k) Parts Installation Limitation

From the effective date of this AD, it is allowed to install on an airplane a forward cargo door or an aft cargo door, provided the part is a serviceable forward cargo door or serviceable aft cargo door as defined in paragraph (g)(2) of this AD.

(l) 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 (m)(2) of this AD. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Section, Transport Standards Branch, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (j) 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.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2018–0031, dated January 31, 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–2018–0410.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, International Section, Transport Standards Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *continued-airworthiness.a350@airbus.com;* internet *http://www.airbus.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 7, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10211 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0408; Product Identifier 2017–NM–146–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 supersede Airworthiness Directive (AD) 2016–13–16, which applies to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2016–13–16 requires an inspection or records check to determine if affected horizontal stabilizers are installed, related investigative actions, and, for affected horizontal stabilizers, repetitive inspections for any crack of the horizontal stabilizer rear spar upper chord, and corrective action if necessary. Since we issued AD 2016–13–16, we have determined that clarification of inspection areas and serial number information of the horizontal stabilizer is necessary. Therefore, this proposed AD would retain the requirements of AD 2016–13–16, with revised service information that clarifies the inspection areas and serial number information of the horizontal stabilizer. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 29, 2018.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 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–2018–0408.

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–2018–0408; 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: Lu Lu, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3525; email: *lu.lu@faa.gov.*

SUPPLEMENTARY INFORMATION:

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–2018–0408; Product Identifier 2017–NM–146–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 issued AD 2016–13–16, Amendment 39–18581 (81 FR 44503, July 8, 2016) (''AD 2016–13–16''), for all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2016–13–16 requires an identification plate inspection or records check to determine if affected horizontal stabilizers are installed, related investigative actions, and for affected horizontal stabilizers, repetitive inspections for any crack of the horizontal stabilizer rear spar upper chord, and corrective action if necessary. AD 2016–13–16 resulted from reports of a manufacturing oversight, in which a supplier omitted the required protective finish on certain bushings installed in the rear spar upper chord on horizontal stabilizers, which could lead to galvanic corrosion and consequent cracking of the rear spar upper chord. We issued AD 2016–13–16 to address cracking of the rear spar upper chord, which can result in the failure of the upper chord, consequent departure of the horizontal stabilizer from the airplane, and loss of control of the airplane.

Actions Since AD 2016–13–16 Was Issued

Since we issued AD 2016–13–16, it has been determined that clarification of inspection areas and serial number information of the horizontal stabilizer is necessary. Therefore, the service information has been revised to clarify the inspection areas for cracking and serial number information of the horizontal stabilizer.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017. This service information describes procedures for an identification plate inspection or records check to determine whether affected horizontal stabilizers are installed, related investigative actions, and for affected horizontal stabilizers, repetitive high frequency eddy current (HFEC) inspections for any crack of the horizontal stabilizer rear spar upper chord, and corrective action. 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

Although this proposed AD does not explicitly restate the requirements of AD 2016–13–16, this proposed AD would retain all requirements of AD 2016–13–16. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. This proposed AD would clarify the inspection areas and serial number information of the horizontal stabilizer. This proposed AD would also require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, described previously.

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–2018–0408.

Costs of Compliance

We estimate that this proposed AD affects 1,748 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
Inspection or records check to determine the serial number of the horizontal stabilizer.	1 work-hour × $85 per hour = $85	$0	$85	$148,580
HFEC inspection	6 work-hour × $85 per hour = $510	0	510	891,480

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, all 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 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 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 have 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 that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2016–13–16, Amendment 39–18581 (81 FR 44503, July 8, 2016), and adding the following new AD:

The Boeing Company: Docket No. FAA–2018–0408; Product Identifier 2017–NM–146–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by June 29, 2018.

(b) Affected ADs

This AD replaces AD 2016–13–16, Amendment 39–18581 (81 FR 44503, July 8, 2016) (''AD 2016–13–16'').

(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.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by reports of a manufacturing oversight, in which a supplier omitted the required protective finish on certain bushings installed in the rear spar upper chord on horizontal stabilizers, which could lead to galvanic corrosion and consequent cracking of the rear spar upper chord. We are issuing this AD to address cracking of the rear spar upper chord, which could result in the failure of the upper chord, consequent departure of the horizontal stabilizer from the airplane, and loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as required by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017.

(h) Exceptions to Service Information

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, uses the phrase ''the Revision 1 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, specifies contacting Boeing, and specifies that action as RC: This AD requires repair using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Parts Installation Limitations

As of the effective date of this AD, no person may install a horizontal stabilizer on any airplane, except as specified in paragraphs (i)(1) or (i)(2) of this AD.

(1) A horizontal stabilizer may be installed if the part is inspected in accordance with ''Part 2: Horizontal Stabilizer Identification Plate Inspection'' of the Accomplishments Instructions of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, and no affected serial number is found.

(2) A horizontal stabilizer may be installed if the part is inspected in accordance with ''Part 2: Horizontal Stabilizer Identification Plate Inspection'' of the Accomplishments Instructions of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, and an affected serial number is found, provided that the actions specified in paragraphs (i)(2)(i) and (i)(2)(ii) of this AD are done, as applicable.

(i) Initial and repetitive high frequency eddy current (HFEC) inspections, which are part of the required actions specified in paragraph (g) of this AD, are completed within the compliance times specified in paragraph (g) of this AD.

(ii) All applicable corrective actions, which are part of the required actions specified in paragraph (g) of this AD, are done within the compliance times specified in paragraph (g) of this AD.

(j) Credit for Previous Actions

For Groups 1 and 2, Configuration 1 airplanes, as identified in Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017: 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 Alert Service Bulletin 737–55A1097, dated July 1, 2015.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2016–13–16 are approved as AMOCs for the corresponding provisions of Boeing Alert Service Bulletin 737–55A1097, Revision 1, dated September 20, 2017, that are required by paragraph (g) of this AD.

(5) Except as required by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(5)(i) and (k)(5)(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.

(l) Related Information

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

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd.,

MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 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 7, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10209 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0409; Product Identifier 2017–NM–120–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 supersede Airworthiness Directive (AD) 2017–16–05, which applies to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2017–16–05 requires a one-time detailed visual inspection for discrepancies in the Krueger flap bullnose attachment hardware, and related investigative and corrective actions if necessary. Since we issued AD 2017–16–05, we received a report of a missing no. 2 Krueger flap bullnose hinge bolt from an airplane that was not included in the applicability of AD 2017–16–05. This proposed AD would add airplanes and an additional inspection to determine if any Krueger flap no. 1, 2, 3, or 4 has been replaced, and related investigative and corrective actions. 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 a Krueger flap bullnose 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 29, 2018.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; internet: *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 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–2018–0409.

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–2018–0409; 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: 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–2018–0409; Product Identifier 2017–NM–120–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 issued AD 2017–16–05, Amendment 39–18982 (82 FR 39344, August 18, 2017) (''AD 2017–16–05''), for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. AD 2017–16–05 requires a one-time detailed visual inspection for discrepancies in the Krueger flap bullnose attachment hardware, and related investigative and corrective actions, if necessary. AD 2017–16–05 resulted from a report of a Krueger flap bullnose departing an airplane during taxi, which caused damage to the wing structure and thrust reverser. We issued AD 2017–16–05 to detect and correct missing Krueger flap bullnose hardware. Such missing hardware could result in the Krueger flap bullnose departing the airplane during flight, which could damage empennage structure and lead to the inability to maintain continued safe flight and landing.

Actions Since AD 2017–16–05 Was Issued

Since we issued AD 2017–16–05, we have received a report of a missing no. 2 Krueger flap bullnose hinge bolt from an airplane that was not included in the applicability of AD 2017–16–05.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–57A1327, Revision 2, dated July 25, 2017 (''BASB 737–57A1327, R2''). This service information describes procedures for a one-time detailed visual inspection for discrepancies in the Krueger flap bullnose attachment hardware, and related investigative and corrective actions; and an inspection to determine if any Krueger flap no. 1, 2, 3, or 4 has been replaced, and related investigative and corrective actions.

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

FAA's Determination

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

Although this proposed AD does not explicitly restate the requirements of AD 2017–16–05, this proposed AD would retain certain requirements of AD 2017–16–05. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this proposed AD. This proposed AD would add airplanes and an additional inspection to determine if any Krueger flap no. 1, 2, 3, or 4 has been replaced, and applicable related investigative and corrective actions. This proposed AD would also require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of BASB 737–57A1327, R2, described previously, except as discussed under ''Differences Between this Proposed AD and the Service Information.''

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–2018–0409.

Differences Between This Proposed AD and the Service Information

Because the affected parts identified in this NPRM are rotable parts, we have determined that these parts could later be installed on airplanes that were initially delivered with acceptable parts, thereby subjecting those airplanes to the unsafe condition. Therefore, while the effectivity of BASB 737–57A1327, R2 is limited to line numbers 1 through 6465 inclusive, the applicability of this proposed AD includes all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This difference has been coordinated with Boeing.

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

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection of the Krueger flap bullnose hardware (1,495 airplanes) (retained actions from AD 2017–16–05).	3 work-hours × $85 per hour = $255.	$0	$255	$381,225
Inspection to determine if any Krueger flap no. 1, 2, 3, or 4 has been replaced (1,814 airplanes) (new proposed action).	3 work-hours × $85 per hour = $255.	0	255	462,570

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

Regulatory Findings

We have 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 that the 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) 2017–16–05, Amendment 39–18982 (82 FR 39344, August 18, 2017), and adding the following new AD:

The Boeing Company: Docket No. FAA–2018–0409; Product Identifier 2017–NM–120–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by June 29, 2018.

(b) Affected ADs

This AD replaces AD 2017–16–05, Amendment 39–18982 (82 FR 39344, August 18, 2017) (''AD 2017–16–05'').

(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)(3) of this AD.

(1) Airplanes in Groups 1 and 2 as identified in Boeing Alert Service Bulletin 737–57A1327, Revision 2, dated July 25, 2017 (''BASB 737–57A1327, R2'').

(2) Airplanes in Group 3, as identified in BASB 737–57A1327, R2, except where this service bulletin specifies the groups as line numbers 6422 through 6465 inclusive, this AD specifies those groups as line number 6422 through any line number airplane with an original Certificate of Airworthiness or an original Export Certificate of Airworthiness dated on or before the effective date of this AD.

(3) 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 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of a Krueger flap bullnose departing an airplane during taxi, which caused damage to the wing structure and thrust reverser, and a report of a missing no. 2 Krueger flap bullnose hinge bolt from an airplane that was not included in the effectivity of AD 2017–16–05. We are issuing this AD to address missing Krueger flap bullnose hardware. Such missing hardware could result in the Krueger flap bullnose departing the airplane during flight, which could damage empennage structure and lead to the inability to maintain continued safe flight and landing.

(f) Compliance

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

(g) Required Actions

For airplanes identified in paragraphs (c)(1) and (c)(2) of this AD: Except as required by paragraph (h) of this AD, at the applicable times specified in paragraph 1.E., ''Compliance,'' of BASB 737–57A1327, R2, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of BASB 737–57A1327, R2.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where BASB 737–57A1327, R2 uses the phrase ''the original issue date of this service bulletin,'' this AD requires using September 22, 2017 (the effective date of AD 2017–16–05).

(2) For purposes of determining compliance with the requirements of this AD: Where BASB 737–57A1327, R2 uses the phrase ''the Revision 2 date of this service bulletin,'' this AD requires using ''the effective date of this AD.''

(i) Parts Installation Limitation

As of the effective date of this AD, no person may install a Krueger flap or Krueger flap bullnose on any airplane, unless the actions required by paragraph (g) of this AD have been accomplished on the Krueger flap bullnose.

(j) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before September 22, 2017 (the effective date of AD 2017–16–05), using Boeing Alert Service Bulletin 737–57A1327, dated May 20, 2016.

(2) 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 Alert Service Bulletin 737–57A1327, Revision 1, dated September 28, 2016.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2017–16–05 are approved as AMOCs for the corresponding provisions of BASB 737–57A1327, R2 that are required by paragraph (g) of this AD.

(5) For service information that contains steps that are labeled as RC, the provisions of paragraphs (k)(5)(i) and (k)(5)(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) Operators may deviate from steps not labeled as RC by 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.

(l) 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 May 7, 2018.

Michael Kaszycki,

Acting Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10213 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0412; Product Identifier 2017–NM–180–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 supersede Airworthiness Directive (AD) 2010–25–06, which applies to certain The Boeing Company Model 737–200, –300, –400, and –500 series airplanes. AD 2010–25–06 requires repetitive inspections for cracking of certain fuselage frames and stub beams, and corrective actions if necessary. AD 2010–25–06 also provides for an optional repair, which terminates the repetitive inspections. For airplanes on which a certain repair is done, AD 2010–25–06 also requires repetitive inspections for cracking of certain fuselage frames and stub beams,

and corrective actions if necessary. Since we issued AD 2010–25–06, additional cracking was found in areas not covered by the inspections. This proposed AD would retain the actions required by AD 2010–25–06 and would expand the inspection area. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 29, 2018.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 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–2018–0412.

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–2018–0412; 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: Galib Abumeri, Aerospace Engineer, Airframe Section, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@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–2018–0412; Product Identifier 2017–NM–180–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 issued AD 2010–25–06, Amendment 39–16539 (75 FR 81409, December 28, 2010) (''AD 2010–25–06''), for certain Model 737–200, –300, –400, and –500 series airplanes. AD 2010–25–06 requires repetitive inspections for cracking of certain fuselage frames and stub beams, and corrective actions if necessary. AD 2010–25–06 also provides for an optional repair, which terminates the repetitive inspections. For airplanes on which a certain repair is done, AD 2010–25–06 also requires repetitive inspections for cracking of certain fuselage frames and stub beams, and corrective actions if necessary. AD 2010–25–06 resulted from reports of the detection of fatigue cracks at certain frame sections, in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver loads. We issued AD 2010–25–06 to detect and correct fatigue cracking of certain fuselage frames and stub beams and possible severed frames, which could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and could result in rapid decompression of the fuselage.

Actions Since AD 2010–25–06 Was Issued

Since we issued AD 2010–25–06, additional cracking was found in areas not covered by the inspections. During an inspection of the body station (BS) 616 stub beam upper chord, an operator identified additional cracking at buttock line (BL) 64. We determined that eddy current inspections of the upper chord at BL 64 and BL 65 must be done to maintain structural integrity. In addition, during inspections of the longitudinal floor beam web at the BS 639 stub beams operators found cracking in the floor beam web. It was determined that the inspections required by AD 2010–25–06 were inadequate, and eddy current inspections of the BL 45.5 floor beam web at the BS 639 stub beam interface must be done to address this cracking.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017. The service information describes procedures for detailed and eddy current inspections of the fuselage frame and over wing stub beam at BS 616, BS 639, and BS 597 or BS 601, and BL 45.5 floor beam web at the BS 639 stub beam attachment, and relative investigative and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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 retain all requirements of AD 2010–25–06. This proposed AD does not explicitly restate the requirements of AD 2010–25–06. Those requirements are referenced in the service information identified previously, which, in turn, is referenced in this proposed AD, except for any differences identified as exceptions in the regulatory text of this proposed AD. This proposed AD would add new repetitive inspections for cracking of certain other fuselage frames and stub beams. 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–2018–0412.

Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, provides two economic inspections to find cracking prior to frame damage, which could require extensive repairs. These inspections are recommended but are not mandated in this proposed AD.

The phrase ''corrective actions'' is used in this proposed AD. Corrective actions correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this proposed AD affects 67 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	Up to 67 work-hours × $85 per hour = $5,695.	$0	Up to $5,695 per inspection cycle.	Up to $381,565 per inspection cycle.

We estimate the following costs to do certain necessary repairs/replacements that would be required based on the results of the proposed inspections. We have no way of determining the number of aircraft that might need these repairs/replacements:

ON-CONDITION COSTS

Action **	Labor cost	Parts cost	Cost per product
Repairs/replacements	Up to 76 work-hours × $85 per hour = $6,460	*	Up to $6,460.

* All required parts are supplied by the operator. This cost is minimal, and we have no way to determine what an operator would pay for these parts.

** We have received no definitive data that would enable us to provide cost estimates for certain other repairs 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 have 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 that the 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) 2010–25–06, Amendment 39–16539 (75 FR 81409, December 28, 2010), and adding the following new AD:

The Boeing Company: Docket No. FAA–2018–0412; Product Identifier 2017–NM–180–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by June 29, 2018.

(b) Affected ADs

This AD replaces AD 2010–25–06, Amendment 39–16539 (75 FR 81409, December 28, 2010) (''AD 2010–25–06'').

(c) Applicability

This AD applies to The Boeing Company Model 737–200, -300, -400, and -500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by the detection of fatigue cracks at certain frame sections, in addition to stub beam cracking, caused by high flight cycle stresses from both pressurization and maneuver loads and additional cracking found in areas not covered by the inspections in AD 2010–25–06. We are issuing this AD to address fatigue cracking of certain fuselage frames and stub beams and possible severed frames, which could result in reduced structural integrity of the frames. This reduced structural integrity can increase loading in the fuselage skin, which will accelerate skin crack growth and

could result in rapid decompression of the fuselage.

(f) Compliance

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

(g) Repetitive Inspections of Body Stations 616 and 639 Frames and Stub Beams and Corrective Actions

At the applicable time specified table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017: Do a detailed or high frequency eddy current (HFEC) inspection for cracking of the body station (BS) 616 and 639 frames and stub beams and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(1) of this AD. Do all applicable related investigative and corrective actions before further flight. Thereafter, repeat the inspection at the applicable time specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(h) Repetitive Post-Repair Inspections of Body Stations 616 and 639 Frames and Integral Stub Beams and Corrective Actions

At the applicable time specified table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017: Do the inspections required by paragraphs (h)(1) and (h)(2) of this AD; or the inspection required by paragraph (h)(3) of this AD; as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(1) of this AD. Do all applicable related investigative and corrective actions before further flight. Thereafter, repeat the inspection at the applicable time specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(1) Do a low frequency eddy current (LFEC) inspection of the web, and an HFEC inspection of the inner and outer chord common to the upper end fastener rows of the web splice doubler for cracking.

(2) Do the inspection specified in paragraph (h)(2)(i) or (h)(2)(ii) of this AD.

(i) Do a detailed inspection of the replacement frame section for cracking.

(ii) Do an HFEC and LFEC inspection of the replacement frame section for cracking.

(3) Do a detailed or HFEC inspection of the replacement stub beam for cracking.

(i) Repetitive Inspections of Buttock Line 45.5 Longitudinal Floor Beam Web at Body Station 639 Stub Beam Attachment and Corrective Actions

For Group 1 and Group 2 airplanes as identified in Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, at the time specified table 3 or table 4, as applicable, of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(2) of this AD: Do the inspections required by paragraph (i)(1) and (i)(2) of this AD and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(1) of this AD. Do all applicable corrective actions before further flight. Thereafter, repeat the inspections at the time specified in table 3 or table 4, as applicable, of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(1) Do an open-hole HFEC inspection for cracking of the buttock line (BL) 45.5 longitudinal floor beam web at each fastener hole common to the stub beam attachment angle.

(2) Do an HFEC surface inspection for cracking of the BL 45.5 longitudinal floor beam web around the fastener head/tail at each fastener location common to the backup strap.

(j) Repetitive Post-Repair Inspections of Buttock Line 45.5 Longitudinal Floor Beam Web at Body Station 639 and Corrective Actions

For Group 2 airplanes as identified in Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, at the applicable time specified table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(2) of this AD: Do the inspections required by paragraphs (j)(1) and (j)(2) of this AD and all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(1) of this AD. Do all applicable corrective actions before further flight. Thereafter, repeat the inspections at the applicable time specified in table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(1) Do an open-hole HFEC inspection for cracking of the BL 45.5 longitudinal floor beam web filler at each fastener hole common to the stub beam attachment angle.

(2) Do an HFEC surface inspection for cracking of the BL 45.5 longitudinal floor beam web filler around the fastener head/tail at each fastener location common to the backup strap.

(k) Repetitive Inspections for Cracking of BS 616 Machined Stub Beam Upper Chord and Corrective Actions

For Group 2 and Group 3 airplanes as identified in Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, at the applicable time specified in table 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, except as required by paragraph (m)(2) of this AD; do detailed and medium frequency eddy current subsurface inspections for cracking of the BS 616 machined stub beam upper chord, and all applicable corrective actions, except as required by paragraph (m)(1) of this AD. Do all applicable corrective actions before further flight. Thereafter, repeat the inspections at the applicable time specified in table 9 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017.

(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 Boeing Alert Service Bulletin 737–53A1254, Revision 1, dated July 9, 2009; or Boeing Alert Service Bulletin 737–53A1254, Revision 2, dated February 22, 2012.

(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 Boeing Alert Service Bulletin 737–53A1254, Revision 2, dated February 22, 2012.

(m) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, specifies to contact Boeing for repair instructions: Before further flight, do the repair using a method approved in accordance with the procedures specified in paragraph (n) of this AD.

(2) Where Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, specifies a compliance time ''after the Revision 3 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(n) 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 (o)(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.

(4) AMOCs approved previously for AD 2010–25–06 are approved as AMOCs for the corresponding provisions of Boeing Alert Service Bulletin 737–53A1254, Revision 3, dated November 13, 2017, that are required by paragraphs (g) and (h) of this AD.

(o) Related Information

(1) For information about this AD, contact Galib Abumeri, Aerospace Engineer, Airframe Section, Los Angeles ACO Branch, FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5324; fax: 562–627–5210; email: *galib.abumeri@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 May 8, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10299 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0411; Product Identifier 2017–NM–157–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 certain Airbus Model A319–115 and –132 airplanes, and Model A320–214, –216, –232, and –233 airplanes. This proposed AD was prompted by a report indicating that certain modified airplanes do not have electrical ground wires on the fuel level sensing control unit (FLSCU), which adversely affects the fuel gravity feeding operation. This proposed AD would require modification of the FLSCU wiring. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 29, 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 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–2018–0411; 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: 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:

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–2018–0411; Product Identifier 2017–NM–157–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 AD 2017–0216, dated October 30, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A319–115 and –132 airplanes, and Model A320–214, –216, –232, and –233 airplanes. The MCAI states:

> Airbus introduced mod 154327 on A319 and A320 aeroplanes which substituted the pump fuel feed system from the centre fuel tank with a jet pump transfer system, based on the Airbus A321 design. Following the modification introduction, it was discovered that the modified aeroplanes do not have electrical ground signals that replicate those from the deleted centre tank pump pressure switches. These signals are used as part of the fuel recirculation inhibition request logic. Subsequent investigation determined that ground wires had not been installed on the fuel level sensor control units (FLSCU) of post-mod aeroplanes, due to a drawing error on the fuel system recirculation principle diagram. Without these ground wires providing inputs, the FLSCU logic is not correctly implemented for gravity feeding operation.
>
> This condition, if not corrected, could lead to reduced fuel pressure at the engine inlet, possibly resulting in an uncommanded in-flight shut-down when flying at the gravity feed ceiling levels, as defined in the Aircraft Flight Manual (AFM).
>
> To address this potential unsafe condition, Airbus issued AFM Temporary Revision (TR) 695 Issue 1 and AFM TR 699 Issue 1 to prohibit the use of Jet B and JP4 fuel, and AFM TR 700 Issue 1 to provide instructions for amendment of the gravity feed procedure for the other fuels.
>
> Consequently, EASA issued AD 2016–0205 [which corresponds to FAA AD 2016–25–23, Amendment 39–18749 (81 FR 90971, December 16, 2016) (''AD 2016–25–23'')], requiring amendment of the applicable AFM to include the new gravity feed procedure and to reduce the list of authorised fuels.
>
> Since that [EASA] AD was issued, Airbus developed a wiring modification to restore the intended FLSCU logic, and issued Service Bulletin (SB) A320–28–1242, later revised, providing instructions to modify affected aeroplanes.
>
> For the reason described above, this [EASA] AD retains the requirements of EASA AD 2016–0205, which is superseded, and requires modification of FLSCU wiring. This [EASA] AD also allows, after that modification, to remove the previously inserted AFM TR's from the applicable AFM.

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–2018–0411.

Relationship Between Proposed AD and AD 2016–25–23

This NPRM would not supersede AD 2016–25–23. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This NPRM would require modification of the FLSCU wiring. Accomplishment of the proposed actions would then terminate all of the requirements of AD 2016–25–23.

Related Service Information Under 1 CFR Part 51

Airbus has issued Service Bulletin A320–28–1242, Revision 01, dated October 3, 2017. The service information describes procedures for modification of the FLSCU wiring. 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 58 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	14 work-hours × $85 per hour = $1,190	$204	$1,394	$80,852

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 known 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):

Airbus: Docket No. FAA–2018–0411; Product Identifier 2017–NM–157–AD.

(a) Comments Due Date

We must receive comments by June 29, 2018.

(b) Affected ADs

This AD affects AD 2016–25–23, Amendment 39–18749 (81 FR 90971, December 16, 2016) (''AD 2016–25–23'').

(c) Applicability

This AD applies to Airbus Model A319–115 and –132 airplanes, and Model A320–214, –216, –232, and –233 airplanes, certificated in any category, all manufacturer serial numbers on which Airbus modification 154327 has been embodied in production, except those on which Airbus modification 158740 has been embodied.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a report indicating that certain modified airplanes do not have electrical ground wires on the fuel level sensing control unit (FLSCU), which adversely affects the fuel gravity feeding operation. We are issuing this AD to prevent reduced fuel pressure at the engine inlet, potentially resulting in an uncommanded in-

flight shutdown when flying at the fuel gravity feed ceiling levels.

(f) Compliance

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

(g) Modification

Within 24 months after the effective date of this AD, modify the FLSCU wiring in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–28–1242, Revision 01, dated October 3, 2017.

(h) Terminating Action for AD 2016–25–23 and Amendment of the Airplane Flight Manual (AFM)

Modification of an airplane as required by paragraph (g) of this AD terminates all of the requirements of AD 2016–25–23 for that airplane. After modification of an airplane as required by paragraph (g) of this AD, remove Airbus A318/A319/A320/A321 Temporary Revision TR695, Issue 1.0, dated August 1, 2016; or Airbus A318/A319/A320/A321 Temporary Revision TR699, Issue 1.0, dated August 1, 2016; as applicable; and Airbus A318/A319/A320/A321 Temporary Revision TR700, Issue 1.0, dated August 1, 2016, from the applicable AFM of that airplane.

(i) Credit for Previous Actions

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 Airbus Service Bulletin A320–28–1242, dated December 21, 2016.

(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.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2017–0216, dated October 30, 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–2018–0411.

(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) 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 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 8, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10298 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 3

[Docket No. FDA–2004–N–0191]

Product Jurisdiction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or Agency) is proposing to amend its regulations concerning the classification of products as biological products, devices, drugs, or combination products, and their assignment to Agency components for premarket review and regulation. This proposed rule would update the regulations to clarify the scope of the regulations, streamline and clarify the appeals process, align the regulations with more recent legislative and regulatory measures, update advisory content, and otherwise clarify the regulations, including updates to reflect Agency practices and policies. These changes are intended to enhance regulatory clarity and efficiency.

DATES: Submit either electronic or written comments on the proposed rule by July 16, 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 16, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 16, 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–2004–N–0191 for ''Product Jurisdiction.'' 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: John Barlow Weiner, Associate Director for Policy, Office of Combination Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20933, 301–796–8930, *john.weiner@fda.hhs.gov.*

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Executive Summary

FDA promulgated its product jurisdiction regulations, codified at part 3 (21 CFR part 3), in 1991 (see 56 FR 58754, November 21, 1991). Although FDA amended these regulations most recently in 2005, to clarify the meaning of the statutory term ''primary mode of action'' for assignment of combination products to Agency components (see 70 FR 49848, August 25, 2005), the regulations remain largely as published in 1991. However, relevant statutory provisions have changed; FDA has published additional policies so that the advisory content included in the regulations requires updating; and in other respects the rule warrants revisions to enhance clarity and efficiency. Accordingly, FDA is proposing to amend part 3 to: (1) Clarify the scope of the regulations; (2) streamline and clarify the appeals process; (3) align the regulations with more recent legislative and regulatory measures; (4) update advisory content; and (5) otherwise clarify the rule, including updating it to reflect Agency policies and practices.

The incremental quantified cost savings of the proposed rule accrue to both the Agency and industry from resources, such as time and paper, saved through eliminating the part 3 appeal to the Office of Combination Products (OCP). These annual social cost savings are estimated to be $28,000. Sponsors are expected to incur one-time costs to read and understand the regulation. Our primary estimate of the total cost to industry in the first year is approximately $131,000.

The Agency estimates the quantifiable net social effect of the proposed rule to be a cost of approximately $103,000 in the first year and a cost savings of approximately $28,000 each year starting in the second year. The net present discounted value of the quantifiable net effect over 10 years is approximately $114,000 at a 3 percent discount rate and $76,000 at a 7 percent discount rate. The total annualized net effect of the proposed rule is estimated to produce an average net cost savings ranging from $13,000 at a 3 percent discount rate and $11,000 at a 7 percent discount rate.

I. Description of the Proposed Rule

For the reasons presented in the following subsections, FDA proposes to amend its regulations on Product Jurisdiction codified at part 3 to: (1) Clarify the scope of the regulation; (2) streamline and clarify the appeals process; (3) align the regulations with more recent legislative and regulatory measures; (4) update advisory content; and (5) otherwise clarify the rule, including updating it to reflect Agency policies and practices.

A. Clarify the Scope of the Regulation

This proposed rule, if finalized, would amend § 3.3—Scope, to clarify that the part 3 procedures apply to sponsors (also referred to as applicants, see § 3.2—Definitions) for products for which the classification as biological products, devices, drugs, or combination products, or the Agency component with primary jurisdiction, is unclear or in dispute. It would also make conforming revisions to other sections in part 3, including the definitions in § 3.2.

FDA published its product jurisdiction regulations codified at part 3 in 1991, in part to implement section 503(g) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 353(g)), which calls upon the Agency to assign products that are comprised of any combination of a drug and a device, a device and a biological product, a biological product and a drug, or a drug, a device and a biological product (''combination products'') to Agency components based on the primary mode of action (PMOA) of the combination product. The rulemaking also established that the same procedures would be used to assign biological products, devices, and drugs to Agency components when their assignment was unclear or in dispute.

Although part 3 did not expressly refer to classification of products as biological products, devices, drugs, or combination products, such

determinations are generally necessary to make an assignment determination. Non-combination products (biological products, devices, and drugs) are assigned to Agency components based on their classification. Accordingly, the Agency needs to determine, for example, whether a product is a biological product to be able to determine whether it should be assigned to a component that regulates biological products. Similarly, assignment of combination products is based on determining whether the product is a combination product and if so, which constituent part of the combination product (biological product, device, or drug) provides the PMOA (or applying the algorithm specified in § 3.4(b) if the PMOA cannot be determined with reasonable certainty).

Therefore, the Agency has been accepting under part 3 sponsor requests for the Agency to make product classification as well as assignment determinations (see, *e.g.,* ''How to Write a Request for Designation (RFD)'', at *https://www.fda.gov/regulatoryinformation/guidances/ucm126053.htm*). FDA's longstanding acceptance and review of sponsors' requests for product classification under part 3 is consistent with the obligations to which FDA became subject in 1998 under section 416 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), which added section 563 to the FD&C Act (21 U.S.C. 360bbb–2). Section 563 of the FD&C Act requires FDA to classify products as biological products, devices, drugs, or combination products and to assign products to an Agency component for regulation, in response to requests for designations submitted by product sponsors. The procedures at part 3 are appropriate for implementation of section 563 as well as section 503(g) of the FD&C Act, and FDA has used these procedures for both purposes to date.

This proposed rule would revise § 3.3 to clarify that FDA's procedures in part 3 apply to classification of products as biological products, devices, drugs, or combination products as well as to assignment of these products to Agency components, and would make corresponding amendments to other sections in part 3, including §§ 3.1, 3.7(c)(3) (see proposed 3.5(b)), 3.8(b) (see proposed 3.6(b)), 3.9(b) (see proposed 3.7(b)), and the definitions in § 3.2 for ''letter of designation,'' ''letter of request,'' and ''product jurisdiction officer,'' to be consistent with this clarified statement of scope.

In addition, Agency experience over the 26 years since part 3 was codified has shown that sponsors sometimes are confused as to whether they must request a classification or assignment determination under part 3 as a prerequisite to making a premarket submission for their product, regardless of whether the classification or assignment for their product is unclear or in dispute. In addition, some entities who are not the sponsor for the product have attempted to obtain a product classification or assignment determination. To eliminate this confusion, this proposed rule would also revise § 3.3 to state that the part 3 procedures apply to sponsors if classification or assignment is unclear or in dispute for their product. If no such uncertainty exists, use of the procedures is unnecessary, and sponsors can engage directly with the appropriate Agency component. Further, clarifying that part 3 applies to sponsors is consistent with section 503(g) of the FD&C Act, as amended by the 21st Century Cures Act (Cures Act) (Pub. L. 114–255), and with section 563 of the FD&C Act.

B. Streamline and Clarify the Appeals Process for Product Classifications and Assignments

Section 3.8(c)—Requests for reconsideration. The proposed rule would remove, as confusing and inefficient, the process codified at § 3.8(c) for sponsors to request that the product jurisdiction officer reconsider determinations made under part 3.

Currently, a sponsor may make a request for reconsideration and if the sponsor disagrees with the decision upon reconsideration, the sponsor may make an additional, supervisory appeal in accordance with § 10.75 (21 CFR 10.75). Alternatively, the sponsor may directly submit such a supervisory appeal without first requesting reconsideration under § 3.8(c).

This current approach has proven confusing to sponsors and inefficient for sponsors and Agency staff. Determinations under part 3 are made through a robust process involving OCP's review of information, either provided by the sponsor or otherwise available to the Agency, in consultation with regulatory, legal, and scientific staff from other Agency components, as appropriate. Consistent with appeals under § 10.75, no new information may be presented in a request for reconsideration under § 3.8(c). Because determinations under part 3 are made through a robust process, further evaluation of the same data and information by OCP is unlikely to result in a change of decision. Requests for reconsideration have been inefficient for sponsors who have opted to utilize this mechanism, and inclusion of the request for reconsideration mechanism has led to confusion, with sponsors sometimes believing they must make a request for reconsideration before they may submit a § 10.75 supervisory appeal.

Accordingly, FDA has determined that the request for reconsideration process is unhelpful to retain.

C. Aligning Part 3 With More Recent Legislative and Regulatory Measures

In addition to the amendments made by section 416 of FDAMA regarding classification and assignment discussed in section I.A, two other statutory changes have been made relating to issues addressed in part 3 since FDA promulgated the part 3 regulations in 1991, and this rule proposes to amend part 3 to comport with these statutory changes as well.

FDA amended part 3 in 2005 to clarify the meaning of PMOA for assignment of combination products, and to codify at § 3.2 definitions for biological product, device, and drug ''modes of action'' based upon the statutory definitions of biological product, device, and drug. The Biologics Price Competition and Innovation Act of 2009 (Subtitle A of Title VII of the Patient Protection and Affordable Care Act (Pub. L. 111–148)) amended the definition for biological product at section 351(i) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(i)) to address expressly and more precisely the classification of proteins as biological products. This proposed rule would amend the definition for ''biological product mode of action'' at § 3.2 to align with the current statutory definition for biological product.

In 2016, section 3038 of the Cures Act amended section 503(g) of the FD&C Act, to include additional provisions relating to intercenter consultation and coordination (see 21 U.S.C. 353(g)(8)(C)), reinforcing expectations that intercenter consultation and coordination occur as appropriate. Currently, § 3.4(c) states in part that the designation of a center (an ''agency component'' as defined in § 3.2) as having primary jurisdiction for a combination product does not preclude consultations by that component with other components. In keeping with section 503(g) of the FD&C Act as amended and Agency practice, the Agency is revising § 3.4(c) to make clear that consultations with other Agency components will occur as FDA deems appropriate. Agency practice is to conduct intercenter consultation and coordination routinely to ensure appropriate expertise is brought to bear

to enable fully informed reviews and consistent regulation of products.

In addition, section 503(g) of the FD&C Act, as amended by section 3038 of the Cures Act, states that combination products shall be reviewed under a single application whenever appropriate, and that sponsors may submit separate applications for the constituent parts of a combination product unless FDA determines a single application is necessary (see 21 U.S.C. 353(g)(1)(B) and (6)). Currently, § 3.4(c) states in part that the Agency can require in appropriate cases that constituent parts of a combination product be reviewed under separate applications. Accordingly, to avoid confusion that might arise from maintaining this different articulation of Agency authority on this topic, the proposed rule would remove this language at § 3.4(c). FDA intends to issue guidance regarding implementation of the new statutory provisions as needed given Agency experience with implementing them.[1]

The rule uses the term ''application,'' and lists types of applications within the definition for ''premarket review'' at § 3.2. However, the types of premarket submissions for medical products have changed since publication of part 3, and this listing is now incomplete. To enhance clarity and completeness, the proposed rule would add a current, complete definition for ''application,'' and remove the existing, related language currently included in the definition for ''premarket review'' in § 3.2. In addition, for clarity and alignment with Agency practice, the proposed rule would revise § 3.2 to define premarket review to include examination of data and information ''submitted by an applicant,'' rather than ''in an application,'' since premarket review can include Agency review of information provided as part of ''pre-submission'' engagement with applicants.

In addition, the proposed rule would amend § 3.2—Definitions to include a cross-reference to the definition for ''constituent part,'' codified at 21 CFR 4.2 in the 2013 rulemaking regarding current good manufacturing practices for combination products, and which has also been referenced at 21 CFR 4.101 as part of the 2016 rule on postmarketing safety reporting for combination products (81 FR 92603). The meaning of the term is the same for purposes of part 3 as for purposes of part 4. Accordingly, cross-referencing the definition into part 3 would serve to ensure clarity and consistency.

D. Update Advisory Content

Part 3 includes advisory language and addresses associated with Agency guidance in various locations. As a general matter, recommendations from FDA are provided in guidance documents published in accordance with good guidance practices (see 21 CFR 10.115). This approach not only enables the public to comment on proposed guidance, but also enables FDA to update guidance in a timely manner given stakeholder and Agency experience with the policy topic. FDA included advisory content in part 3 in light of the novelty of the regulatory topic at the time, to facilitate stakeholder understanding and indicate Agency thinking. However, Agency thinking has evolved since promulgation of part 3 and more complete, current guidance documents and other policy statements are now available. Accordingly, the proposed rule, if finalized, would remove the advisory content and discussion of guidance from part 3. Specifically, this proposed rule would remove the provisions at §§ 3.2, 3.5, and 3.7, as explained below.

Section 3.2 includes in the definition for ''mode of action'' a reference to constituent parts of combination products each providing one type of mode of action and notes that the mode of action of each constituent part is typically identifiable. The proposed rule would replace this potentially confusing language, with a simple statement that each constituent part contributes one mode of action (device, drug, or biological product). Modes of action of a combination product and how to address them in requests for assignment are more fully addressed in Agency guidance, including in ''How to Write a Request for Designation (RFD).''

Section 3.5 addresses the relationship between part 3 and intercenter agreements on product assignment. The proposed rule would remove this section. These non-binding intercenter agreements adopted in 1991 address the assignment of biological products, devices, and drugs, as well as combination products. The Medical Device User Fee and Modernization Act (MDUFMA) (Pub. L. 107–250) enacted in 2002 amended section 503(g) of the FD&C Act to require FDA to review each agreement, guidance, or practice addressing the assignment of combination products to Agency centers, for consistency with section 503(g) (see 21 U.S.C. 353(g)(8)(F)). In accordance with this mandate, FDA conducted a review, including of the intercenter agreements addressed in § 3.5, and published its assessment in 2006 (see ''Jurisdictional Update: Intercenter Agreements'', at *https://www.fda.gov/CombinationProducts/JurisdictionalInformation/JurisdictionalUpdates/ucm106506.htm*). The Agency concluded that: (1) The usefulness of these agreements was becoming increasingly limited; (2) that they should not be relied upon independently as the most current, accurate jurisdictional statements; and (3) that issuance of new guidance and other efforts should be pursued to enhance transparency and more clearly articulate the principles upon which jurisdictional determinations are based. Consistent with that assessment, FDA has since published various policy statements relating to product classification and assignment and posted various other relevant materials on its website (see *https://www.fda.gov/CombinationProducts/default.htm*), most recently, a final guidance on ''Classification of Products as Drugs and Devices and Additional Product Classification Issues'' (September 2017) (*https://www.fda.gov/RegulatoryInformation/Guidances/ucm258946.htm*). The Agency is currently reviewing these intercenter agreements to determine what action, if any, to take with respect to them.

Sections 3.7(a) and (b) include recommendations regarding who should file an RFD and when they should file them, respectively. The proposed rule, if finalized, would remove these provisions. These questions are addressed by the proposed amendments to § 3.3 discussed in section I.A, and current Agency guidance, including in ''How to Write a Request for Designation (RFD)'', which provides more clear and complete recommendations regarding timing and other process considerations.

[1] Section 3038 of the Cures Act also amended section 503(g) of the FD&C Act in other respects relating to combination product assignment, including to: Incorporate a definition for PMOA, which is consistent with the regulatory definition of PMOA at § 3.2, promulgated by FDA in its 2005 amendments to part 3 (see 21 U.S.C. 353(g)(1)(C)); provide that drug or biological product PMOA cannot be based solely upon the product having any chemical action within or on the human body (see 21 U.S.C. 353(g)(1)(E)); provide that sponsors who disagree with FDA's PMOA determination may request a substantive rationale of the determination (see 21 U.S.C. 353(g)(1)(F)(i)); and provide a mechanism for sponsors and FDA to collaborate and seek agreement on studies to establish the relevance of the chemical action in achieving the PMOA of their products if they do not agree with the Agency's PMOA determination (see 21 U.S.C. 353(g)(1)(F)(ii)). These amendments serve to codify longstanding Agency regulatory interpretations and practices. Accordingly, FDA has determined that revision of part 3 with respect to these statutory amendments is not necessary.

E. Other Clarifications to the Rule

Section 3.2 defines mode of action, and what constitutes a biological product, device, and drug mode of action, for purposes of making combination product assignment determinations. To enhance clarity, the proposed rule would add an express statement that the mode of action definitions apply for purposes of making combination product assignment determinations, and would simplify the definition for device mode of action at § 3.2 by referring to the statutory definition of device provided in section 201(h) of the FD&C Act (21 U.S.C. 321(h)) and removing redundant language.

Section 3.4(a)—Designated Agency component. The proposed rule would amend § 3.4(a) to clarify that the Agency component to which a combination product is assigned based on PMOA is the component that regulates the constituent part providing the PMOA. For example, some biological products are assigned to the Center for Biologics Evaluation and Research (CBER) and others are assigned to the Center for Drug Evaluation and Research (CDER). If a combination product has a biological product PMOA, it is assigned to either CBER or CDER based upon which of these two Centers regulate that type of biological product. This interpretation of the statutory provisions governing PMOA and combination product assignments is consistent with Agency practice and ensures that combination products are assigned to the Agency component most familiar with the constituent part that provides the PMOA.

Sections 3.2 and 3.6—Product jurisdiction officer. Section 3.2 includes a definition of ''product jurisdiction officer'' and section 3.6 specifies that OCP is the designated product jurisdiction officer. The proposed rule would revise the definition for ''product jurisdiction officer'' at § 3.2 to include information currently provided in § 3.6, and remove § 3.6, simplifying the rule by consolidating this related information. Specifically, the definition of ''product jurisdiction officer'' at § 3.2 would be revised to refer to OCP as the office responsible for classification and assignment of medical products. MDUFMA required FDA to establish an office to perform various regulatory functions relating to combination products, including their assignment to Agency components. Consistent with that mandate, FDA created OCP and delegated to specified staff within OCP the authority to classify products as biological products, devices, drugs, or combination products as well as to assign these products to an Agency component with primary jurisdiction for their premarket review and regulation.

Existing section 3.7(d) addresses where to file RFD communications and currently requires submission in hard copy with the option to submit electronically as well. FDA sees no reason to continue to require a hard copy submission and proposes to revise the provision (see proposed § 3.5(b)) and make corresponding revisions to the content of § 3.7(c) (see proposed 3.5(b)) to give sponsors the alternative of submitting solely electronically. In addition, to avoid the need to revise the rule given changes to OCP's mailing address or email address, this rule would amend § 3.7(d) (see proposed 3.5(b)) to direct sponsors to submit RFDs to the current mailing address or email address for OCP as published by FDA, currently on the Office of Combination Products web page (*https://www.fda.gov/CombinationProducts/default.htm*).

Section 3.9(b) addresses grounds for changing a classification or assignment designation, including circumstances under which the Agency can do so without the consent of the sponsor. It currently provides that sponsors shall be given 30 days written notice (which can be via email) of proposed changes and that such changes require the concurrence of the Principal Associate Commissioner. Because positions and titles in the Agency change from time to time, to avoid the need to revise part 3 when such changes occur, this rule would revise § 3.9(b) (see proposed § 3.7(b)) to state that such changes of classification or assignment require the concurrence of the official in the Agency responsible for the oversight of OCP.

Other clarifying changes to part 3 include in § 3.2: In the definitions of ''combination product'' and ''product,'' changing ''biologic'' to ''biological product'' to provide for consistency in part 3 and with the term used in section 351 of the PHS Act; and in the definitions of ''biological product'' and ''product,'' changing ''351(a)'' to ''351(i)'' and ''262(a)'' to ''262(i)'' so that the correct provision in the PHS Act and the U.S. Code is cited (*i.e.,* the provision that defines ''biological product'').

II. Legal Authority

The Agency derives its authority to issue the regulations found in part 3 from 21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 360gg–360ss, 360bbb–2, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262, and 264. Congress expressly directed FDA to assign combination products to the appropriate Agency component for regulation based on the Agency's assessment of PMOA as set forth in section 503(g) of the FD&C Act. Congress also expressly directed FDA to determine the classification of a product as a drug, biological product, device, or combination product, or the component of the Agency that will regulate the product, as applicable, in response to a request submitted under section 563 of the FD&C Act. Under section 701 of the FD&C Act (21 U.S.C. 371) and for the efficient enforcement of the FD&C Act, FDA has the authority to issue and amend the regulations found in part 3.

III. Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no new collection of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 is not required. Information collection under part 3 has already been approved under OMB control number 0910–0523.

IV. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. We have determined that the proposed rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

VI. Consultation and Coordination With Indian Tribal Governments

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13175. We have tentatively determined that the rule does not contain policies that would 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. The Agency solicits comments from tribal officials on any potential impact on Indian Tribes from this proposed action.

VII. Preliminary Economic Analysis of Impacts

A. Introduction

We have examined the impacts of the proposed rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all 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, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this proposed rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule imposes no new burdens, we propose to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. This proposed rule would not result in an expenditure in any year that meets or exceeds this amount.

B. Summary of Costs and Benefits

The objective of this proposed rule is to amend the regulations concerning RFDs of the classification of products as biological products, devices, drugs, or combination products, or their assignment to Agency components for premarket review and regulation. The proposed rule is intended to clarify the scope of the regulations, streamline and clarify the appeals process, align the regulations with more recent legislative and regulatory measures, update advisory content, and otherwise to clarify part 3.

Many provisions of this proposed rule codify current practices and may not result in estimated costs, benefits, or savings. However, we expect a few provisions to lead to changes that may generate additional public health benefits and cost savings to society. A summary of the quantified costs and cost savings of the proposed rule are presented in table 1. The lower and upper estimates given in table 1 are at the 5 and 95 percent interval, respectively.

TABLE 1—SUMMARY OF NET COST SAVINGS OF THE PROPOSED RULE [1] [2]

Category	Primary estimate	Low estimate	High estimate
Costs	Annualized Monetized $/year Annualized Quantified. Qualitative.	$17,000	$12,000

[1] We use a 10-year time horizon for this rule with payments occurring at the end of each period.
[2] All dollar values are rounded to the nearest $1,000.

The estimated primary costs of the proposed rule include the additional one-time costs incurred by industry to read and understand the regulation. We expect only a subset of firms currently producing medical products will incur this cost. Our primary estimate of the total up-front cost to industry is approximately $131,000. Annualizing these costs over a 10-year period, we estimate total annualized costs to be $15,000 at a 3 percent discount rate, and $17,000 at a 7 percent discount rate. The present value of these costs over 10 years is $127,000 at a 3 percent discount rate, and $122,000 at a 7 percent discount rate.

The primary public health benefit from adoption of the proposed rule would be the value of the illnesses and deaths avoided as a result of finalizing the proposed rule. Current regulatory requirements may cause applicants to unnecessarily submit RFDs, or to make misguided judgments regarding the need to confirm product classification or assignment. The reduction in uncertainty about the RFD process will, thereby, potentially allow sponsors to make more informed decisions regarding product development and seeking marketing authorization, and potentially allow sponsors and FDA personnel to divert resources used under current regulations to other areas, such as to product development and marketing applications. We are not able to quantify or to identify specific ways by which the proposed rule would lead to avoided illnesses or deaths and therefore do not include public health benefits in our net estimates.

FDA is able to quantify the resource savings to both the Agency and industry from the proposed rule associated with streamlining and clarifying the appeals process for product classification and assignments. Our primary estimate of total cost savings to industry and FDA is approximately $28,000 annually. The present value of these savings over 10 years is $241,000 at a 3 percent discount rate, and $198,000 at a 7 percent discount rate. Potential resource savings to FDA and industry from the optional electronic submission of RFDs are not included in this estimate because of the uncertainty in the number of sponsors who would choose to submit electronically.

Our best estimate of the quantifiable net social effect of the proposed rule, using a 10-year time horizon, is a cost of approximately $103,000 in the first year and a cost savings of approximately $28,000 each year starting in the second year. The net present discounted value of the quantifiable cost savings over 10 years is approximately $114,000 at a 3 percent discount rate and approximately $76,000 at a 7 percent discount rate. The total annualized net effect of the proposed rule is estimated to produce an average net cost savings ranging from $13,000 at a 3 percent discount rate and $11,000 at a 7 percent discount rate.

Executive Order 13771 requires that the costs associated with significant

new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that the proposed rule, if finalized, is not significant under Executive Order 12666 and is deregulatory under Executive Order 13771.

The present value of our primary net cost savings estimate of the proposed rule, using an infinite time horizon, is approximately $281,000, discounted at 7 percent, with a lower bound of approximately $165,000 and an upper bound of approximately $1.2 million. The annualized net cost savings of the proposed rule are approximately $20,000, discounted at 7 percent on an infinite time horizon, with a lower bound of approximately $12,000 and an upper bound of approximately $83,000. Discounted at 3 percent, the present value of our primary net cost savings of the proposed rule is approximately $814,000, with a lower bound of approximately $634,000 and an upper bound of approximately $2.9 million. The annualized net cost of the proposed rule is approximately −$20,000, discounted at 3 percent on an infinite time horizon, with a lower bound of approximately −$12,000 and an upper bound of approximately −$83,000. The estimated net costs using a 7 percent discount rate under Executive Order 13771 are summarized in table 2.

TABLE 2—SUMMARY OF EXECUTIVE ORDER 13771 NET COSTS OF THE PROPOSED RULE [1] [2] [3]

	Primary (7%)	Lower bound (7%)	Upper bound (7%)
Present Value of Costs	$122,000	$81,000	$192,000
Present Value of Savings	403,000	357,000	1,266,000
Present Value of Net Costs	281,000	165,000	1,184,000
Annualized Costs	9,000	6,000	13,000
Annualized Savings	28,000	25,000	89,000
Annualized Net Costs	−20,000	−12,000	−83,000

[1] We use an infinite time horizon for this rule with payments occurring at the end of each period.
[2] All dollar values are rounded to the nearest $1,000.
[3] A negative net cost implies a net cost savings.

The Regulatory Flexibility Act requires Agencies to prepare an initial regulatory flexibility analysis if a proposed rule would have a significant economic impact on a substantial number of small entities (including small businesses, small non-profit organizations, and small governmental jurisdictions). FDA has examined the economic implications of the proposed rule as required by the Regulatory Flexibility Act. This rule, if finalized, will not impose any new burdens on small entities, and thus will not have a significant economic impact on a substantial number of small entities.

The full preliminary analysis of economic impacts is available in the docket for this proposed rule (Ref. 1) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VIII. Proposed Effective Date

FDA is proposing that any final rule based on this proposed rule become effective 30 days after the date of its publication in the **Federal Register**.

IX. Reference

The following reference is on display in the Dockets Management Staff (see **ADDRESSES**) and is available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; it is also available electronically at *https://www.regulations.gov* or *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

1. Preliminary Regulatory Impact Analysis of the Proposed Rule, Amendments to 21 CFR Part 3—Product Jurisdiction, Docket No. FDA–2004–N–0191.

List of Subjects in 21 CFR Part 3

Administrative practice and procedure, Biological products, Combination products, Drugs, Medical devices, Authority delegations.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 3 be amended as follows:

■ 1. The authority citation for part 3 is revised to read as follows:

Authority: 21 U.S.C. 321, 351, 352, 353, 355, 360, 360c–360f, 360h–360j, 360gg–360ss, 360bbb–2, 371(a), 379e, 381, 394; 42 U.S.C. 216, 262, 264.

■ 2. Revise part 3 to read as follows:

PART 3—PRODUCT JURISDICTION

Subpart A—Product Classification and Assignment of Agency Component for Review of Premarket Applications

Sec.
3.1 Purpose.
3.2 Definitions.
3.3 Scope.
3.4 Designated agency component.
3.5 Request for designation.
3.6 Letter of designation.
3.7 Effect of letter of designation.
3.8 Stay of review time.

Subpart B [Reserved]

§ 3.1 Purpose.

The purpose of this subpart is to provide procedures for determining whether a product is a biological product, device, drug, or combination product, and which component within FDA will have primary jurisdiction for a biological product, device, drug, or combination product, where product classification or assignment is unclear or in dispute. By doing so, this subpart implements section 503(g) of the Federal Food, Drug, and Cosmetic Act. Nothing in this subpart prevents FDA from using any agency resources it deems necessary to ensure adequate review of the safety and effectiveness of any product, or the substantial equivalence of any device to a predicate device.

§ 3.2 Definitions.

For the purpose of this part:

Agency means the Food and Drug Administration.

Agency component means the Center for Biologics Evaluation and Research, the Center for Devices and Radiological Health, the Center for Drug Evaluation and Research, or alternative organizational component of the agency.

Applicant means any person who submits or plans to submit an application to the Food and Drug Administration for premarket review. For purposes of this section, the terms ''sponsor'' and ''applicant'' have the same meaning.

Application means any investigational new drug application, investigational device exemption application, new drug application, abbreviated new drug application, biologics license application, premarket notification submission, De Novo classification request, premarket approval application, product development protocol, or humanitarian device exemption application, including all amendments and supplements.

Biological product has the meaning given the term in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

Combination product includes:

(1) A product comprised of two or more regulated components, *i.e.,* drug/device, biological product/device, drug/biological product, or drug/device/biological product, that are physically, chemically, or otherwise combined or mixed and produced as a single entity;

(2) Two or more separate products packaged together in a single package or as a unit and comprised of drug and device products, device and biological products, or biological and drug products;

(3) A drug, device, or biological product packaged separately that according to its investigational plan or proposed labeling is intended for use only with an approved individually specified drug, device, or biological product where both are required to achieve the intended use, indication, or effect and where upon approval of the proposed product the labeling of the approved product would need to be changed, *e.g.,* to reflect a change in intended use, dosage form, strength, route of administration, or significant change in dose; or

(4) Any investigational drug, device, or biological product packaged separately that according to its proposed labeling is for use only with another individually specified investigational drug, device, or biological product where both are required to achieve the intended use, indication, or effect.

Constituent part has the meaning given the term in § 4.2 of this chapter.

Device has the meaning given the term in section 201(h) of the Federal Food, Drug, and Cosmetic Act.

Drug has the meaning given the term in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act.

FDA means Food and Drug Administration.

Letter of designation means the written notice issued by the product jurisdiction officer classifying the product, specifying the agency component with primary jurisdiction, or both.

Letter of request means an applicant's written submission to the product jurisdiction officer seeking product classification, the designation of the agency component with primary jurisdiction, or both.

Mode of action is the means by which a product achieves an intended therapeutic effect or action. For purposes of this definition, ''therapeutic'' action or effect includes any effect or action of the combination product intended to diagnose, cure, mitigate, treat, or prevent disease, or affect the structure or any function of the body. When making assignments of combination products under this part, the agency will consider three types of mode of action: The actions provided by a biological product, a device, and a drug. Each constituent part of a combination product has one such type of mode of action. For purposes of combination product assignment:

(1) A constituent part has a biological product mode of action if it acts by means of a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivate of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition of human beings, as described in section 351(i) of the Public Health Service Act.

(2) A constituent part has a device mode of action if it meets the definition of device contained in section 201(h) of the Federal Food, Drug, and Cosmetic Act, and it does not have a biological product mode of action.

(3) A constituent part has a drug mode of action if it meets the definition of drug contained in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act, and it does not have a biological product or device mode of action.

Premarket review includes the examination of data and information submitted by an applicant.

Primary mode of action is the single mode of action of a combination product that provides the most important therapeutic action of the combination product. The most important therapeutic action is the mode of action expected to make the greatest contribution to the overall intended therapeutic effects of the combination product.

Product means any article that contains any drug as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act; any device as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act; or any biological product as defined in section 351(i) of the Public Health Service Act (42 U.S.C. 262(i)).

Product jurisdiction officer is the person or persons in the Office of Combination Products responsible for classification of products as biological products, devices, drugs, and combination products and for designating the component of FDA with primary jurisdiction for the premarket review and regulation of such products.

Sponsor means ''applicant'' as defined in this section.

§ 3.3 Scope.

This subpart applies to sponsors for products for which classification as a drug, device, biological product, or combination product, or the agency component with primary jurisdiction, is unclear or in dispute.

§ 3.4 Designated agency component.

(a) To designate the agency component with primary jurisdiction for the premarket review and regulation of a combination product, the agency shall determine the primary mode of action of the product. Where the primary mode of action is that of:

(1) A drug (other than a biological product), the agency component charged with premarket review of such drugs shall have primary jurisdiction;

(2) A device, the agency component charged with premarket review of such devices shall have primary jurisdiction;

(3) A biological product, the agency component charged with premarket review of such biological products shall have primary jurisdiction.

(b) In some situations, it is not possible to determine, with reasonable certainty, which one mode of action will provide a greater contribution than any other mode of action to the overall therapeutic effects of the combination product. In such a case, the agency will assign the combination product to the agency component that regulates other combination products that present similar questions of safety and effectiveness with regard to the combination product as a whole. When there are no other combination products that present similar questions of safety and effectiveness with regard to the combination product as a whole, the agency will assign the combination product to the agency component with the most expertise related to the most significant safety and effectiveness questions presented by the combination product.

(c) The agency component with primary jurisdiction for the premarket review and regulation of a product will

consult with other agency components, as FDA deems appropriate.

§ 3.5 Request for designation.

(a) What to file: A request for designation may be submitted only by the sponsor and must be filed in accordance with this section. The request for designation must not exceed 15 pages, including attachments, and must set forth:

(1) The identity of the sponsor, including company name and address, establishment registration number, company contact person, email address, and telephone number.

(2) A description of the product, including:

(i) Classification, name of the product and all component products, if applicable;

(ii) Common, generic, or usual name of the product and all component products;

(iii) Proprietary name of the product;

(iv) Identification of any component of the product that already has received premarket approval, is marketed as not being subject to premarket approval, or has received an investigational exemption, the identity of the sponsors, and the status of any discussions or agreements between the sponsors regarding the use of this product as a component of a new combination product.

(v) Chemical, physical, or biological composition;

(vi) Status and brief reports of the results of developmental work, including animal testing;

(vii) Description of the manufacturing processes, including the sources of all components;

(viii) Proposed use or indications;

(ix) Description of all known modes of action, the sponsor's identification of the single mode of action that provides the most important therapeutic action of the product, and the basis for that determination;

(x) Schedule and duration of use;

(xi) Dose and route of administration of drug or biological product;

(xii) Description of related products, including the regulatory status of those related products; and

(xiii) Any other relevant information.

(3) The sponsor's recommendation as to the classification of the product as a drug, device, biological product, or combination product, or as to which agency component should have primary jurisdiction. For combination products, the recommendation for primary jurisdiction must be based on the primary mode of action unless the sponsor cannot determine with reasonable certainty which mode of action provides the most important therapeutic action of the combination product, in which case the sponsor's recommendation must be based on the assignment algorithm set forth in § 3.4(b) and an assessment of the assignment of other combination products the sponsor wishes FDA to consider during the assignment of its combination product.

(b) How and where to file: All communications pursuant to this subpart shall be addressed to the attention of the product jurisdiction officer and plainly marked ''Request for Designation.'' Such communications shall be submitted either in hard copy (an original and two copies) or in an electronic format that FDA can process, review, and archive, to the current mailing address or email address, respectively, for the Office of Combination Products as published by FDA.

§ 3.6 Letter of designation.

(a) Each request for designation will be reviewed for completeness within 5 working days of receipt. Any request for designation determined to be incomplete will be returned to the applicant with a request for the missing information. The sponsor of an accepted request for designation will be notified of the filing date.

(b) Within 60 days of the filing date of a request for designation, the product jurisdiction officer will issue a letter of designation to the sponsor, with copies to the agency components, specifying the classification of the product at issue or the agency component designated to have primary jurisdiction for the premarket review and regulation of the product at issue, and any consulting agency components. The product jurisdiction officer may request a meeting with the sponsor during the review period to discuss the request for designation. If the product jurisdiction officer has not issued a letter of designation within 60 days of the filing date of a request for designation, the sponsor's recommendation of the classification of the product or the center with primary jurisdiction, in accordance with § 3.5(a)(3), shall become the designated product classification or agency component.

§ 3.7 Effect of letter of designation.

(a) The letter of designation constitutes an agency determination that is subject to change only as provided in paragraph (b) of this section.

(b) The product jurisdiction officer may change the designated product classification or agency component with the written consent of the sponsor, or without its consent to protect the public health or for other compelling reasons. A sponsor shall be given 30 days written notice of any proposed such change in designated product classification or agency component. The sponsor may request an additional 30 days to submit written objections, not to exceed 15 pages, to the proposed change, and shall be granted, upon request, a timely meeting with the product jurisdiction officer and appropriate center officials. Within 30 days of receipt of the sponsor's written objections, the product jurisdiction officer shall issue to the sponsor, with copies to appropriate agency component officials, a written determination setting forth a statement of reasons for the proposed change in designated product classification or agency component. Such a change in the designated product classification or agency component requires the concurrence of the official in the agency responsible for overseeing the Office of Combination Products.

§ 3.8 Stay of review time.

Any filing with or review by the product jurisdiction officer stays the review clock or other established time periods for agency action for an application during the pendency of the review by the product jurisdiction officer.

Subpart B [Reserved]

Dated: May 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10321 Filed 5–14–18; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2017–0152; FRL–9978–09–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Interstate Transport Requirements for the 2012 Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Delaware. This revision pertains to the infrastructure requirement for interstate transport of pollution with respect to the 2012 fine

particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS). EPA is proposing approval of this revision in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 14, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2017–0152 at *http://www.regulations.gov,* or via email to *spielberger.susan@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Joseph Schulingkamp, (215) 814–2021, or by email at *schulingkamp.joseph@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 14, 2015, the State of Delaware, through the Department of Natural Resources and Environmental Control (DNREC) submitted a SIP revision addressing the infrastructure requirements under section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS. On September 22, 2017, EPA approved all portions of Delaware's submittal except for the portion addressing section 110(a)(2)(D)(i)(I) regarding the interstate transport of emissions. *See* 82 FR 44318. As explained in the final rule, EPA intended to take separate action on that portion of Delaware's submittal and is doing so with today's proposed action.

I. Background

A. General

Particle pollution is a complex mixture of extremely small particles and liquid droplets in the air. When inhaled, these particles can reach the deepest regions of the lungs. Exposure to particle pollution is linked to a variety of significant health problems. Particle pollution also is the main cause of visibility impairment in the nation's cities and national parks. $PM_{2.5}$ can be emitted directly into the atmosphere, or it can form from chemical reactions of precursor gases including sulfur dioxide (SO_2), nitrogen dioxide (NO_2), certain volatile organic compounds (VOC), and ammonia. On January 15, 2013, EPA revised the level of the health based (primary) annual $PM_{2.5}$ standard to 12 micrograms per meter cubed ($\mu g/m^3$). *See* 78 FR 3086.

B. EPA's Infrastructure Requirements

Pursuant to section 110(a)(1) of the CAA, states are required to submit a SIP revision to address the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements to assure attainment and maintenance of the NAAQS—such as requirements for monitoring, basic program requirements, and legal authority. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances of each NAAQS and what is in each state's existing SIP. In particular, the data and analytical tools available at the time the state develops and submits the SIP revision for a new or revised NAAQS affect the content of the submission. The content of such SIP submission may also vary depending upon what provisions the state's existing SIP already contains.

Specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

C. Interstate Pollution Transport Requirements

Section 110(a)(2)(D)(i)(I) of the CAA requires a state's SIP to address any emissions activity in one state that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in any downwind state. The EPA sometimes refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the ''good neighbor'' provision of the CAA. On March 17, 2016, EPA issued a memorandum providing information on the development and review of SIPs that address CAA section 110(a)(2)(D)(i) for the 2012 $PM_{2.5}$ NAAQS (2016 $PM_{2.5}$ Memorandum).[1] Further information can be found in the Technical Support Document (TSD) for this rulemaking action, which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2017–0152.

II. Summary of SIP Revisions and EPA Analysis

Delaware's December 14, 2015 SIP submittal asserted that the State's SIP presently contains adequate provisions prohibiting sources from emitting air pollutants in amounts which will contribute significantly to nonattainment or interfere with maintenance of the 2012 $PM_{2.5}$ NAAQS. Delaware also asserted under Delaware Code, Title 7, Chapter 60, Subsection 6010(c), ''Rules and regulations; plans,'' that the State has the legal authority to regulate sources whose emission could transport to areas in nonattainment or to areas currently attaining the NAAQS. Delaware also describes ambient air quality data for New Castle, Kent, and Sussex Counties as all being below the NAAQS. A detailed summary of Delaware's submittal and EPA's review and rationale for approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2012 $PM_{2.5}$ NAAQS may be found in the TSD for this rulemaking action, which is available online at *www.regulations.gov,* Docket number EPA–R03–OAR–2017–0152.

EPA used the information in the 2016 $PM_{2.5}$ Memorandum and additional information for the evaluation and came to the same conclusion as Delaware. As

[1] ''Information on the Interstate Transport ''Good Neighbor'' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I),'' Memorandum from Stephen D. Page, Director, EPA Office of Air Quality Planning and Standards (March 17, 2016). A copy is included in the docket for this rulemaking action.

discussed in greater detail in the TSD, EPA identified the potential downwind nonattainment and maintenance receptors identified in the 2016 $PM_{2.5}$ Memorandum, and then evaluated them to determine if Delaware's emissions could potentially contribute to nonattainment and maintenance problems in 2021, the attainment year for moderate $PM_{2.5}$ nonattainment areas. Specifically, the analysis identified the following areas as potential nonattainment and maintenance receptors: (i) 17 potential receptors in California; (ii) one potential receptor in Shoshone County, Idaho; (iii) one potential receptor in Allegheny County, Pennsylvania; (iv) data gaps exist for the monitors in four counties in Florida; and (v) data gaps exist for all monitors in Illinois. For the 17 receptors in California and one potential receptor in Idaho, based on EPA's evaluation of distance and wind direction, EPA proposes to conclude that Delaware's emissions do not significantly impact those receptors. For the potential receptor in Allegheny County, EPA expects the air quality affecting that monitor to improve to the point where the monitor will not be a nonattainment or maintenance receptor by 2021 and is therefore unlikely to be a receptor for purposes of interstate transport. For the four counties in Florida and the monitors in Illinois with data gaps, EPA initially treats those receptors as potential nonattainment or maintenance receptors. For the Florida receptors, it is unlikely that they will be nonattainment or maintenance receptors in 2021 and in any event, modeling from the Cross-State Air Pollution Rule (CSAPR) indicates that Delaware's emissions do not contribute to them. For the monitors in Illinois, the most recent air quality data (from 2015 and 2016) indicates that all monitors are likely attaining the $PM_{2.5}$ NAAQs and are therefore unlikely to be nonattainment or maintenance concerns in 2021. Therefore, EPA proposes to conclude that Delaware emissions will not contribute to any of these receptors. For these reasons, EPA is proposing to find that Delaware's existing SIP provisions as identified in the December 14, 2015 SIP submittal are adequate to prevent its emission sources from significantly contributing to nonattainment or interfering with maintenance in another state with respect to the 2012 $PM_{2.5}$ NAAQS.

III. Proposed Action

EPA is proposing to approve the December 14, 2015 Delaware SIP revision addressing the interstate transport requirements for the 2012 $PM_{2.5}$ NAAQS because the submittal adequately addresses section 110(a)(2)(D)(i)(I) of the CAA. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, addressing the 2012 $PM_{2.5}$ interstate transport obligations for Delaware, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: May 1, 2018.

Cosmo Servidio,

Regional Administrator, Region III.

[FR Doc. 2018–10342 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2003–0194; FRL–9977–74–OAR]

RIN 2060–AT70

National Emission Standards for Hazardous Air Pollutants: Leather Finishing Operations Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On March 14, 2018, the Environmental Protection Agency (EPA) proposed a rule titled, ''National Emission Standards for Hazardous Air Pollutants: Leather Finishing Operations Residual Risk and Technology Review.'' The EPA is reopening the comment period on the proposed rule that closed on April 30, 2018. The EPA is taking this action because the supporting document—Analysis of Demographic Factors for Populations Living Near Leather Finishing Operations—was inadvertently not included in the docket for this proposed rule. As this analysis is now available to the public, the EPA has reopened the comment period for an additional 30 days.

DATES: The public comment period for the proposed rule published in the **Federal Register** on March 14, 2018 (83 FR 11314), is reopened. Written comments must be received on or before June 14, 2018.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2003–0194, at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. *Regulations.gov* is our preferred method of receiving comments. However, other submission formats are also accepted:

- *Email: a-and-r-Docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2003–0194 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2003–0194.
- *Mail:* To ship or send mail via the United States Postal Service, use the following address: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2003–0194, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* Use the following Docket Center address if you are using express mail, commercial delivery, hand delivery, or courier: EPA Docket Center, EPA WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. Delivery verification signatures will be available only during regular business hours.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets* for instructions.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system).

For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Bill Schrock, Natural Resources Group, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5032; fax number: (919) 541–0516; and email address: *schrock.bill@epa.gov*. For specific information regarding the risk modeling methodology, contact Matthew Woody, Health and Environmental Impacts Division (C539–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–1535; fax number: (919) 541–0840; and email address: *woody.matthew@epa.gov*. For information about the applicability of the National Emission Standards for Hazardous Air Pollutants to a particular entity, contact John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2227A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov*.

SUPPLEMENTARY INFORMATION: To allow for additional time for stakeholders to provide comments, the EPA has decided to reopen the public comment period until June 14, 2018.

Dated: May 07, 2018.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2018–10239 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0006; FRL–9976–37]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions; correction.

SUMMARY: EPA issued a notice in the **Federal Register** of March 21, 2018, concerning a Notice of filing—New Tolerance Exemptions for Inerts (except PIPs). This document corrects a typographical error.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P); email address: *BPPDFRNotices@epa.gov;* Michael Goodis, Registration Division, (7505P); email address: *RDFRNotices@epa.gov;* Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7090.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The Agency included in the March 21, 2018, (83 FR 12311) (FRL–9974–76) proposed rule a list of those who may be potentially affected by this action.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0006, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What does this correction do?

This document corrects a typographical error of an incorrect Docket number.

FR Doc. 2018–05639 published in the **Federal Register** of March 21, 2018 (83 FR 12311) (FRL–9974–76) is corrected as follows:

On page 12312, third column, under the heading *Notice of Filing—New Tolerance Exemptions for Inerts (Except PIPs),* paragraph 1, line 2, correct 2017–0179 to read 2017–0520.

Authority: 21 U.S.C. 346a.

Dated: April 19, 2018.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–10347 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0006; FRL–9977–12]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions; correction.

SUMMARY: EPA issued a proposed rule in the **Federal Register** of March 21, 2018, concerning a Notice of filing—Amended Tolerance Exemptions for Inerts (Except PIPS). This document corrects the Company name and address.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P); email address: *BPPDFRNotices@epa.gov;* Michael Goodis, Registration Division, (7505P); email address: *RDFRNotices@epa.gov;* Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7090.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

The Agency included in the March 21, 2018, (83 FR 12311) (FRL–9974–76) proposed rule a list of those who may be potentially affected by this action.

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

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0006, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What does this correction do?

This document corrects the Company name and address.

FR Doc. 2018–05639 published in the **Federal Register** of March 21, 2018 (83 FR 12311) (FRL–9974–76) is corrected as follows:

1. On page 12312, second column, under the heading *Notice of Filing—Amended Tolerance Exemptions for Inerts (Except PIPS),* paragraph 1, line 4, correct Aceto Corporation, 4 Tri Harbor Court, Port Washington, NY 11050 to read Avian Enterprises Limited, LLC, 2000 Pontiac Drive Sylvan Lake, MI 48320.

Authority: 21 U.S.C. 346a.

Dated: April 25, 2018.

Hamaad A. Syed,

Acting Director, Information Technology and Resources Management Division, Office of Pesticide Programs.

[FR Doc. 2018–10344 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 83, No. 94

Tuesday, May 15, 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 COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Industry and Security.

Title: Request for Investigation under Section 232 of the Trade Expansion Act.

Form Number(s): N/A.

OMB Control Number: 0694–0120.

Type of Review: Regular submission.

Estimated Total Annual Burden Hours: 6,000.

Estimated Number of Respondents: 800.

Estimated Time per Response: 7.5 hours.

Needs and Uses: Upon request, BIS will initiate an investigation to determine the effects of imports of specific commodities on the national security, and within 270 days BIS will report to the President the findings and a recommendation for action or in-action. Within 90 days after receiving the report, the President shall determine whether to concur or not concur with the findings and recommendations. No later than 30 days after a decision, the determination will be published in the **Federal Register** and reported to Congress. The purpose of this collection is to account for the public burden associated with the surveys distributed to determine the effect of imports of specific commodities on the national security.

Affected Public: Business or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov http://www.reginfo.gov/public/.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov*

Sheleen Dumas,

Departmental Lead PRA Officer, Office of the Chief Information Officer.

[FR Doc. 2018–10360 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–71–2018]

Foreign-Trade Zone 50—Long Beach, California; Application for Subzone; VF Outdoor, LLC; Ontario, Santa Fe Springs and Corona, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of Long Beach, California, grantee of FTZ 50, requesting subzone status for the facilities of VF Outdoor, LLC (VF), located in Ontario, Santa Fe Springs and Corona, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on May 9, 2018.

The proposed subzone would consist of the following sites: *Site 1* (13.55 acres) 3950 East Airport Drive, Ontario; *Site 2* (22.09 acres) 15614–15620 and 15700 Shoemaker Avenue, Santa Fe Springs; and, *Site 3* (11.5 acres) 2571 Sampson Avenue, Corona. No authorization for production activity has been requested at this time. Site 1 and Site 2 of the proposed subzone currently have FTZ designation (a portion of magnet Site 2 as well as usage-driven Site 19, respectively). This request would combine the space that already has FTZ designation at proposed Sites 1 and 2 and the space at proposed Site 3 into one subzone for VF. The proposed subzone would be subject to the existing activation limit of FTZ 50.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is June 25, 2018. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 9, 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 Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: May 9, 2018.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2018–10325 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2051]

Approval of Expansion of Subzone 116A; Motiva Enterprises LLC; Jefferson and Hardin Counties, Texas

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the

establishment of subzones for specific uses;

Whereas, the Foreign-Trade Zone of Southeast Texas, Inc., grantee of Foreign-Trade Zone 116, has made application to the Board to expand Subzone 116A on behalf of Motiva Enterprises LLC to include an additional site in Port Arthur, Texas (FTZ Docket B–79–2017, docketed December 18, 2017);

Whereas, notice inviting public comment has been given in the **Federal Register** (82 FR 60703, December 22, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone 116A on behalf of Motiva Enterprises LLC, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: May 9, 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, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2018–10322 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2053]

Approval of Expansion of Subzone 49C; E.R. Squibb and Sons, LLC; New Brunswick, New Jersey

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for ''. . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Port Authority of New York and New Jersey, grantee of Foreign-Trade Zone 49, has made application to the Board for the expansion of Subzone 49C at the facility of E.R. Squibb and Sons, LLC, located in New Brunswick, New Jersey (FTZ Docket B–02–2018, docketed January 3, 2018);

Whereas, notice inviting public comment has been given in the **Federal Register** (83 FR 1608, January 12, 2018), and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone 49C at the facility of E.R. Squibb and Sons, LLC, located in New Brunswick, New Jersey, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: May 9, 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, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2018–10323 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 2052]

Approval of Expansion of Subzone 154C; Westlake Chemical Corporation; Geismar, Louisiana

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones (FTZ) Act provides for '' . . . the establishment . . . of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' and authorizes the Foreign-Trade Zones Board to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs and Border Protection ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of subzones for specific uses;

Whereas, the Greater Baton Rouge Port Commission, grantee of Foreign-Trade Zone 154, has made application to the Board to expand Subzone 154C on behalf of Westlake Chemical Corporation to include a site in Plaquemine, Louisiana, and the expanded subzone would no longer be subject to the zone's activation limit (FTZ Docket B–80–2017, docketed December 18, 2017);

Whereas, notice inviting public comment has been given in the **Federal Register** (82 FR 60702–60703, December 22, 2017) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's memorandum, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

Now, therefore, the Board hereby approves the expansion of Subzone 154C on behalf of Westlake Chemical Corporation, as described in the application and **Federal Register** notice, subject to the FTZ Act and the Board's regulations, including Section 400.13.

Dated: May 9, 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, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 2018–10324 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of Completion of Panel Review in the matter of 100- to 150-Seat Large Civil Aircraft from Canada: Final Affirmative Countervailing Duty Determination (Secretariat File Number: USA–CDA–2018–1904–01).

SUMMARY: The NAFTA Secretariat has received motions filed on behalf of Bombardier, Inc. and C Series Aircraft Limited Partnership, the government of Canada, Export Development Canada,

the government of Québec, the U.S. Department of Commerce, The Boeing Company, the government of the United Kingdom, and the European Commission requesting the termination of panel review in the 100- to 150-Seat Large Civil Aircraft from Canada: Final Affirmative Countervailing Duty Determination (Civil Aircraft CVD) dispute.

Given all the participants have filed motions requesting termination and pursuant to Rule 71(2) of the *NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews (Rules),* the NAFTA Civil Aircraft CVD dispute has been terminated.

As a result, and in accordance with Rule 78(a), notice is hereby given that panel review of the NAFTA Civil Aircraft CVD dispute has been completed effective May 7, 2018.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the government of the United States, the government of Canada, and the government of Mexico. There are established *Rules,* which were adopted by the three governments and require Notices of Completion of Panel Review to be published in accordance with Rule 78. For the complete *Rules,* please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

Dated: May 9, 2018.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2018–10229 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Binational Panel Reviews: Notice of Completion of Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce

ACTION: Notice of Completion of Panel Review in the matter of 100- to 150-Seat Large Civil Aircraft from Canada: Final Affirmative Determination of Sales at Less Than Fair Value (Secretariat File Number: USA–CDA–2018–1904–02).

SUMMARY: The NAFTA Secretariat has received motions filed on behalf of Bombardier, Inc. and C Series Aircraft Limited Partnership, the government of Canada, the U.S. Department of Commerce, and The Boeing Company, requesting the termination of panel review in the 100- to 150-Seat Large Civil Aircraft from Canada: Affirmative Determination of Sales at Less Than Fair Value (Civil Aircraft AD) dispute.

Given all the participants have filed motions requesting termination and pursuant to Rule 71(2) of the *NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews (Rules),* the NAFTA Civil Aircraft AD dispute has been terminated.

As a result, and in accordance with Rule 78(a), notice is hereby given that panel review of the NAFTA Civil Aircraft AD dispute has been completed applicable May 2, 2018.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the government of the United States, the government of Canada, and the government of Mexico. There are established *Rules,* which were adopted by the three governments and require Notices of Completion of Panel Review to be published in accordance with Rule 78. For the complete *Rules,* please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904.*

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2018–10228 Filed 5–14–18; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF926

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Off the Coast of Massachusetts

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 an application from Orsted (U.S.) LLC/Bay State Wind LLC (Bay State Wind) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to high-resolution geophysical (HRG) survey investigations associated with marine site characterization activities off the coast of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0500) (the Lease Area). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to Bay State Wind to incidentally take, by Level A and Level B harassment, small numbers of 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 14, 2018.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Youngkin@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and

supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

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 (NEPA)

The U.S. Bureau of Ocean Energy Management (BOEM) prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act (NEPA), to evaluate the issuance of wind energy leases covering the entirety of the Massachusetts Wind Energy Area (including the OCS–A 0500 Lease Area), and the approval of site assessment activities within those leases (BOEM, 2014). NMFS previously adopted BOEM's EA and issued a Finding of No Significant Effect (FONSI) for similar work in 2016 (81 FR 56589, August 22, 2016).

NMFS has reviewed the BOEM EA and our previous FONSI and has preliminarily determined that 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 October 20, 2017 NMFS received an application from Bay State Wind for the taking of marine mammals incidental to HRG and geotechnical survey investigations off the coast of Massachusetts in the OCS–A 0500 Lease Area, designated and offered by the BOEM, to support the development of an offshore wind project. Bay State Wind's request is for take, by Level A and Level B harassment, of a small number of 10 species or stocks of marine mammals. Neither the applicant nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to Bay State Wind (then operating under DONG Energy) for similar work (FR 81 56589, August 22, 2016). Bay State Wind complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the previous IHA and information regarding their monitoring results may be found in the Estimated Take section.

Description of the Specified Activity

Overview

Bay State Wind proposes to conduct HRG surveys in the Lease Area to support the characterization of the existing seabed and subsurface geological conditions in the Lease Area. This information is necessary to support the final siting, design, and installation of offshore project facilities, turbines and subsea cables within the project area as well as to collect the data necessary to support the review requirements associated with Section 106 of the National Historic Preservation Act of 1966, as amended. Underwater sound resulting from Bay State Wind's proposed site characterization surveys has the potential to result in incidental take of marine mammals. This take of marine mammals is anticipated to be in the form of harassment and no serious injury or mortality is anticipated, nor is any authorized in this IHA.

Dates and Duration

HRG surveys of the wind turbine generator (WTG) and offshore substation (OSS) areas are anticipated to commence no earlier than June 1, 2018 and will last for approximately 60 days, including estimated weather down time. Likewise, the Export Cable Route HRG surveys are anticipated to commence no earlier than June 1, 2018 and will last approximately 40 days (including estimated weather down time). Offshore and near coastal shallow water regions of the HRG survey will occur within the same 40-day timeframe. Surveys are anticipated to commence upon issuance of the requested IHA, if appropriate.

Specified Geographic Region

Bay State Wind's survey activities will occur in the approximately 187,532-acre Lease Area designated and offered by BOEM, located approximately 14 miles (mi) south of Martha's Vineyard, Massachusetts at its closest point, as well as within 2 potential export cable routes to Somerset, MA and to Falmouth, MA (see Figure 1–1 of the IHA application). The Lease Area falls within the Massachusetts Wind Energy Area (MA WEA).

Detailed Description of Specified Activities

Marine site characterization surveys will include the following HRG survey activities:

- Depth sounding (multibeam depth sounder) to determine water depths and general bottom topography;
- Magnetic intensity measurements for detecting local variations in regional magnetic field from geological strata and potential ferrous objects on and below the bottom;

• Seafloor imaging (sidescan sonar survey) for seabed sediment classification purposes, to identify natural and man-made acoustic targets resting on the bottom as well as any anomalous features;

• Shallow penetration sub-bottom profiler (pinger/chirp) to map the near surface stratigraphy (top 0–5 meter (m) soils below seabed); and

• Medium penetration sub-bottom profiler (sparker) to map deeper subsurface stratigraphy as needed (soils down to 75–100 m below seabed).

Table 1 identifies the representative survey equipment that is being considered in support of the HRG survey activities. The make and model of the listed HRG equipment will vary depending on availability, but will be finalized as part of the survey preparations and contract negotiations with the survey contractor, and therefore the final selection of the survey equipment will be confirmed prior to the start of the HRG survey program. Only the make and model of the HRG equipment may change, not the types of equipment or the addition of equipment with characteristics that might have effects beyond (*i.e.,* resulting in larger ensonified areas) those considered in this proposed IHA. None of the proposed HRG survey activities will result in the disturbance of bottom habitat in the Lease Area.

TABLE 1—SUMMARY OF REPRESENTATIVE BAY STATE WIND HRG SURVEY EQUIPMENT

HRG equipment	Operating frequencies	Source level reported by manufacturer	Beamwidth (degree)	Pulse duration (millisec)	Pulse repetition rate (Hz)
USBL & GAPS Transceiver					
Sonardyne Ranger 2 USBL HPT 5/7000.	19–34 kHz	206 dB_{pk}/200 dB_{RMS}	180	8–16	1
Sonardyne Ranger 2 USBL HPT 5/7000.	19–34 kHz	194 dB_{pk}/188 dB_{RMS}	180	8–16	3
Easytrak Nexus 2 USBL	18–32 kHz	198 dB_{pk}/192 dB_{RMS}	180	10	1
IxSea GAPS System	20–30 kHz	191 dB_{pk}/188 dB_{RMS}	200	10	10
Sidescan Sonar (SSS)					
EdgeTech 4200 dual frequency SSS.	300 or 600 kHz	208–213 dB_{pk}/205–210 dB_{RMS}.	0.5–0.26 × 50	2.8–12	5–55
Multibeam Sonar (MBS)					
R2 Sonic 2024 Multipbeam Echosounder.	200–400 kHz	229 dB_{pk}/162 dB_{RMS}	0.5 × 1 256 beams.	0.15–0.5	60
Kongsberg EM2040C Dual Head.	200–400 kHz	210 dB_{pk}/204.5 dB_{RMS}	1 × 1	3 or 12	Up to 50
Sub-Bottom Profilers (SBP)					
Edgetech 3200 XS 216 Shallow SBP.	2–16 kHz	208–213 dB_{pk}/205–210 dB_{RMS}.	17	20	10
Innomar SES–2000 Medium SBP.	85–115 kHz	250 dB_{pk}/243 dB_{RMS}	1	0.07–2	40
Innomar SES–2000 Standard SBP.	85–115 kHz	243 dB_{pk}/236 dB_{RMS}	1	0.07–2	60
Sparkers					
GeoMarine Geo-Source	0.2–5 kHz	220 dB_{pk}/205 dB_{RMS}	30	3.8	2
Boomers					
Applied Acoustics S-Boom Triple Plate Boomer.	0.250–8 Hz	220 dB_{pk}/216 dB_{RMS}	25–35	0.3–0.5	3
Applied Acoustics S-Boom Boomer.	0.1–5 kHz	209 dB_{pk}/203 dB_{peak}	30	0.3–0.5	3

The deployment of HRG survey equipment, including the use of intermittent, impulsive sound-producing equipment operating below 200 kilohertz (kHz), has the potential to cause acoustic harassment to marine mammals. Based on the frequency ranges of the equipment to be used in support of the HRG survey activities (Table 1) and the hearing ranges of the marine mammals that have the potential to occur in the Lease Area during survey activities (Table 2), the noise produced by the ultra short baseline (USBL) and global acoustic positioning system (GAPS) transceiver systems; sub-bottom profilers; sparkers; and boomers fall within the established marine mammal hearing ranges and have the potential to result in harassment of marine mammals.

The equipment positioning systems use vessel-based underwater acoustic positioning to track equipment in very shallow to very deep water. Using pulsed acoustic signals, the systems calculate the position of a subsea target by measuring the range (distance) and bearing from a vessel-mounted transceiver to a small acoustic transponder (the acoustic beacon, or pinger) fitted to the target. Equipment

positioning systems will be operational at all times during HRG survey data acquisition (*i.e,* concurrent with the sub-bottom profiler operation). Sub-bottom profiling systems identify and measure various marine sediment layers that exist below the sediment/water interface. A sound source emits an acoustic signal vertically downwards into the water and a receiver monitors the return signal that has been reflected off the sea floor. Some of the acoustic signal will penetrate the seabed and be reflected when it encounters a boundary between two layers that have different acoustic impedance. The system uses this reflected energy to provide information on sediment layers beneath the sediment-water interface. A shallow penetration sub-bottom profiler will be used to map the near surface stratigraphy of the Lease Area. The shallow penetration sub-bottom profiler is a precisely controlled hull/pole mounted ''chirp'' system that emits high-energy sounds used to penetrate and profile the shallow (top 0–5 m soils below seabed) sediments of the seafloor. A Geo-Source 600/800, or similar model, medium-penetration sub-bottom profiler (sparker) will be used to map deeper subsurface stratigraphy in the Lease Area as needed (soils down to 75–100 m below seabed).

Given the size of the Lease Area (187,532 acres), to minimize cost, the duration of survey activities, and the period of potential impact on marine species, Bay State Wind has proposed conducting survey operations 24 hours per day in the offshore areas. Based on 24-hour operations, the estimated duration of the survey activities would be approximately 60 days (including estimated weather down time). For the nearshore/landfall area, a small vessel with a draft sufficient to survey shallow waters will be needed. Only daylight operations will be used to survey the nearshore/landfall, and will require an estimated 40 days to complete (including estimated weather down time). Offshore and near coastal shallow water regions of the HRG survey will occur within the same 40-day timeframe.

The survey area consists of several sections (Lots) as described below:

- Export Cable Route to Somerset, MA—This export cable route will be split into two Lots reflecting the boundary between State and Federal waters, which also coincides with the 3 nautical mile maritime boundary:
  - Lot 1 consists of a 1,640-ft (500 m) wide survey corridor from the 3-nautical mile maritime boundary near coastal shallow water, at which point the corridor splits into three extensions toward potential landfall locations (Extensions 1a, 1b, and 1c; see Figure 1–1 inset in the application). Each extension is 820 ft (250 m) wide. The total estimated trackline miles are approximately 350 mile (mi) (563 km); and
  - Lot 2 consists of a 3,281-ft (1,000 m) wide survey corridor in the offshore region of the export cable route. The total estimated trackline miles are approximately 678 mi (1,091 km);
- Phase I Development Area—This area comprises Lot 3, which consists of the locations for the WTG and OSS as well as inter-array cable segments. The trackline is estimated to be approximately 1,768 mi (2,845 km) and would be comprised of:
  - 656-ft (200 m) radius around the planned locations for OSS;
  - 492-ft (150 m) radius around the planned locations for WTGs;
  - 246-ft (75 m) radius around planned locations for inter-array cable segments; and
- Export Cable Route to Falmouth, MA—This area will be split into two Lots reflecting the boundary between State and Federal waters and coinciding with the 3-nautical mile boundary:
  - Lot 4 consists of a 3,281-ft (1,000 m) wide survey corridor in the offshore region of the cable route. The estimated trackline would be approximately 1,400 mi (2.253 km);
  - Lot 5 consists of a 1,640-ft (500 m) wide survey corridor in the near coastal shallow water region of the cable route. The total estimated trackline would be approximately 67 mi (108 km).

Multiple vessels will be utilized to conduct site characterization survey activities in the locations of the WTG and OSS, two offshore segments of the export cable route, and nearshore/cable landfall area. For the near coastal shallow water regions of the Export Cable Routes (Lots 1 and 5; Refer to Figure 1 and Pages 3–4 of the application for description of Lots), up to two small vessels with a draft sufficient to survey shallow waters (up to 72 feet (ft) (22 m)) are planned to be used. For the WTG and OSS and offshore regions of the two Export Cable Routes (Lots 3, 2, and 4, respectively), up to three large vessels (approximately 170 ft (52 m) in length) will conduct survey operations. In Lots 3 and 4 (WTG and OSS locations and offshore portion of the Export Cable Route to Falmouth), one large vessel will serve as a ''mother vessel'' to a smaller (41 ft (12.5 m)) autonomous surface vessel (ASV) that may be used to 'force multiply' survey production. Additionally, the ASV will also capture data in water depths shallower than 26 ft (8 m)), increasing the shallow end reach of the larger vessel. The ASV can be used for nearshore operations and shallow work (20 ft (6 m) and less) in a ''manned'' configuration.

The ASV and mother vessel will acquire survey data in tandem and the ASV will be kept within sight of the mother vessel at all times. The ASV will operate autonomously along a parallel track to, and slightly ahead of, the mother vessel at a distance set to prevent crossed signaling of survey equipment (within 2,625 ft (800 m)). During data acquisition surveyors have full control of the data being acquired and have the ability to make changes to settings such as power, gain, range scale etc. in real time. Surveyors will also be able to monitor the data as it is acquired by the ASV utilizing a real time IP radio link. For each 12 hour shift, an ASV technician will be assigned to manage the vessel during his or her shift to ensure the vehicle is operating properly and to take over control of the vehicle should the need arise. The ASV is outfitted with an array of cameras, radars, thermal equipment and AIS, all of which is monitored in real time by the ASV technician. This includes a forward-facing dual thermal/HD camera installed on the mother vessel to provide a field of view ahead of the vessel and around the ASV, forward-facing thermal camera on the ASV itself with a real-time monitor display installed on the mother vessel bridge, and use of night-vision goggles with thermal clip-ons for monitoring around the mother vessel and ASV. Additionally, there will be 2 survey technicians per shift assigned to acquire the ASV survey data.

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

Description of Marine Mammals in the Area of the Specified Activity

Sections 3 and 4 of Bay State Wind's IHA application summarize available information regarding the 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; *http://www.nmfs.noaa.gov/pr/sars/species.htm*) and more general information can be found about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*http://www.nmfs.noaa.gov/pr/species/mammals/*).

Table 2 lists all marine mammal species with expected occurrence in the Northwest Atlantic Outer Continental Shelf (OCS) and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) as well as 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' 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' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprise that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic Ocean SARs (*e.g.,* Hayes *et al.,* 2017). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2016 SARs (Hayes *et al.,* 2017) and draft 2017 SARs (available online at: *http://www.nmfs.noaa.gov/pr/sars/draft.htm*).

TABLE 2—MARINE MAMMALS KNOWN TO OCCUR IN THE WATERS OF SOUTHERN NEW ENGLAND

Common name	Scientific name	ESA/MMPA status [1]	Stock abundance (CV; N_{min}) [2]	Stock	PBR	Annual M/SI [3]
Toothed Whales (Odontoceti)						
Atlantic white-sided dolphin.	***Lagenorhynchus acutus***	***N/A***	***48,819 (0.61; 30,403)***	***W. North Atlantic***	***304***	***74***
Atlantic spotted dolphin	*Stenella frontalis*	N/A	44,715 (0.43; 31,610)	W. North Atlantic	316	0
Bottlenose dolphin	***Tursiops truncatus***	***Northern coastal stock is Strategic.***	***11,548 (0.36; 8,620)***	***W. North Atlantic, Northern Migratory Coastal.***	***86***	***1–7.5***
Clymene dolphin	*Stenella clymene*	N/A	Unknown	W. North Atlantic	Unknown	0
Fraser's dolphin	*Lagenodelphis hosei*	N/A	Unknown	W. North Atlantic	Unknown	0
Pan-tropical spotted dolphin.	*Stenella attenuata*	N/A	3,333 (0.91; 1,733)	W. North Atlantic	17	0
Risso's dolphin	*Grampus griseus*	N/A	18,250 (0.46; 12,619)	W. North Atlantic	126	53.6
Rough-toothed dolphin	*Steno bredanensis*	N/A	271 (1.0; 134)	W. North Atlantic	1.3	0
Short-beaked common dolphin.	***Delphinus delphis***	***N/A***	***70,184 (0.28; 55,690)***	***W. North Atlantic***	***557***	***409***
Striped dolphin	*Stenella coeruleoalba*	N/A	54,807 (0.3; 42,804)	W. North Atlantic	428	0
Spinner dolphin	*Stenella longirostris*	N/A	Unknown	W. North Atlantic	Unknown	0
White-beaked dolphin	*Lagenorhynchus albirostris.*	N/A	2,003 (0.94; 1,023)	W. North Atlantic	10	0
Harbor porpoise	***Phocoena phocoena***	***N/A***	***79,833 (0.32; 61,415)***	***Gulf of Maine/Bay of Fundy.***	***706***	***437***
Killer whale	*Orcinus orca*	N/A	Unknown	W. North Atlantic	Unknown	0
Pygmy killer whale	*Feresa attenuata*	N/A	Unknown	W. North Atlantic	Unknown	0
False killer whale	*Pseudorca crassidens*	Strategic	442 (1.06; 212)	W. North Atlantic	2.1	Unknown
Long-finned pilot whale	*Globicephala melas*	N/A	5,636 (0.63; 3,464)	W. North Atlantic	35	38
Short-finned pilot whale	*Globicephala macrorhynchus.*	N/A	21,515 (0.37; 15,913)	W. North Atlantic	159	192
Sperm whale	***Physeter macrocephalus.***	***Endangered***	***2,288 (0.28; 1,815)***	***North Atlantic***	***3.6***	***0.8***
Pigmy sperm whale	*Kogia breviceps*	N/A	3,785 (0.47; 2,598) [4]	W. North Atlantic	21	3.5
Dwarf sperm whale	*Kogia sima*	N/A	3,785 (0.47; 2,598) [4]	W. North Atlantic	21	3.5
Cuvier's beaked whale	*Ziphius cavirostris*	N/A	6,532 (0.32; 5,021)	W. North Atlantic	50	0.4
Blainville's beaked whale	*Mesoplodon densirostris*	N/A	7,092 (0.54; 4,632) [5]	W. North Atlantic	46	0.2
Gervais' beaked whale	*Mesoplodon europaeus*	N/A	7,092 (0.54; 4,632) [5]	W. North Atlantic	46	0
True's beaked whale	*Mesoplodon mirus*	N/A	7,092 (0.54; 4,632) [5]	W. North Atlantic	46	0
Sowerby's beaked whale	*Mesoplodon bidens*	N/A	7,092 (0.54; 4,632) [5]	W. North Atlantic	46	0
Northern bottlenose whale	*Hyperoodon ampullatus*	N/A	Unknown	W. North Atlantic	Unknown	0
Melon-headed whale	*Peponocephala electra*	N/A	Unknown	W. North Atlantic	Unknown	0
Baleen Whales (Mysticeti)						
Minke whale	***Balaenoptera acutorostrata.***	***N/A***	***2,591 (0.81; 1,425)***	***Canadian East Coast***	***14***	***8.25***
Blue whale	*Balaenoptera musculus*	Endangered	Unknown (Unknown; 440)	W. North Atlantic	0.9	Unknown
Fin whale	***Balaenoptera physalus***	***Endangered***	***1,618 (0.33; 1,234)***	***W. North Atlantic***	***2.5***	***3.8***
Humpback whale	***Megaptera novaeangliae***	***N/A***	***823 (0; 823)***	***Gulf of Maine***	***13***	***9.05***
North Atlantic right whale	*Eubalaena glacialis*	Endangered	440 (0; 440)	W. North Atlantic	1	5.66
Sei whale	*Balaenoptera borealis*	Endangered	357 (0.52; 236)	Nova Scotia	0.5	0.8
Earless Seals (Phocidae)						
Gray seals	***Halichoerus grypus***	***N/A***	***424,300 (0.16; 371,444)***	***W. North Atlantic***	***Unknown***	***4,937***
Harbor seals	***Phoca vitulina***	***N/A***	***75,834 (0.15; 66,884)***	***W. North Atlantic***	***2,006***	***389***
Hooded seals	*Cystophora cristata*	N/A	Unknown	W. North Atlantic	Unknown	Unknown
Harp seal	*Phoca groenlandica*	N/A	8,300,000 (Unknown)	W. North Atlantic	Unknown	Unknown

Note: Species information in bold italics are species expected to be taken and proposed for authorization; others are not expected or proposed to be taken.

[1] A strategic stock is defined as any marine mammal stock: (1) For which the level of direct human-caused mortality exceeds the potential biological removal (PBR) level; (2) which is declining and likely to be listed as threatened under the Endangered Species Act (ESA); or (3) which is listed as threatened or endangered under the ESA or as depleted under the Marine Mammal Protection Act (MMPA).

[2] NMFS stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars.* CV = coefficient of variarion; Nmin = minimum estimate of stock abundance.
[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury (M/SI) from all sources combined (*e.g.,* commercial fisheries, ship strike, etc.). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.
[4] This estimate may include both the dwarf and pygmy sperm whales.
[5] This estimate includes Gervais' and Blainville's beaked whales and undifferentiated *Mesoplodon* spp. beaked whales.
Sources: Hayes *et al.,* 2016, Waring *et al.,* 2015; Waring *et al.,* 2013; Waring *et al.,* 2011; Warring *et al.,* 2010; RI SAMP, 2011; Kenney and Vigness-Raposa, 2009; NMFS, 2012.

There are 38 species of marine mammals that potentially occur in the Northwest Atlantic OCS region (BOEM, 2014) (Table 2). The majority of these species are pelagic and/or more northern species, or are so rarely sighted that their presence in the Lease Area is unlikely. Five marine mammal species are listed under the ESA and are known to be present, at least seasonally, in the waters of Southern New England: Blue whale, fin whale, right whale, sei whale, and sperm whale. These species are highly migratory and do not spend extended periods of time in a localized area; the waters of Southern New England (including the Lease Area) are primarily used as a stopover point for these species during seasonal movements north or south between important feeding and breeding grounds. While the fin and right whales have the potential to occur within the Lease Area, the sperm, blue, and sei whales are more pelagic and/or northern species, and though their presence within the Lease Area is possible, they are considered less common with regards to sightings. Because the potential for blue whales and sei whales to occur within the Lease Area during the marine survey period is unlikely, these species will not be described further in this analysis. Sperm whales are known to occur occasionally in the region, but their sightings are considered rare and thus their presence in the Lease Area at the time of the proposed activities is considered unlikely. However, based on a recent increase in sightings, they are included in the discussion below.

The following species are both common in the waters of the OCS south of Massachusetts and have the highest likelihood of occurring, at least seasonally, in the Lease Area: Humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), harbor porpoise (*Phocoena phocoena*), bottlenose dolphin (*Tursiops truncatus*), short-beaked common dolphin (*Delphinus delphis*), harbor seal (*Phoca vitulina*), and gray seal (*Halichorus grypus*). In general, the remaining non-ESA listed marine mammal species listed in Table 2 range outside the survey area, usually in more pelagic waters, or are so rarely sighted that their presence in the survey area is unlikely. For example, while white-beaked dolphins (*Lagenorhynchus albirostris*) are likely to occur in the nearby waters surrounding the survey area (*i.e.,* within 40 nautical miles (74 kilometers (km)), they are not likely to occur within the survey area, and beaked whales are likely to occur in the region to the south of the survey area, but not within 40 nautical miles (74 km) (Right Whale Consortium, 2014). Therefore, only north Atlantic right whales, humpback whales, fin whales, sperm whales, minke whales, bottlenose dolphins, short-beaked common dolphins, Atlantic white-sided dolphins, harbor porpoises, harbor seals, and gray seals are considered in this analysis.

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 decibels (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 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. Eleven marine mammal species (nine cetacean and two pinniped (both 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, five are classified as low-frequency cetaceans (*i.e.,* all mysticete species), four are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and one is classified as high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of the Specified Activity 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.

Background on Sound

Sound is a physical phenomenon consisting of minute vibrations that travel through a medium, such as air or water, and is generally characterized by several variables. Frequency describes the sound's pitch and is measured in Hz or kHz, while sound level describes the sound's intensity and is measured in dB. Sound level increases or decreases exponentially with each dB of change. The logarithmic nature of the scale means that each 10-dB increase is a 10-fold increase in acoustic power (and a 20-dB increase is then a 100-fold increase in power). A 10-fold increase in acoustic power does not mean that the sound is perceived as being 10 times louder, however. Sound levels are compared to a reference sound pressure (micro-Pascal) to identify the medium. For air and water, these reference pressures are ''re: 20 micro pascals (μPa)'' and ''re: 1 μPa,'' respectively. 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, 1975). 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. 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 rather than by peak pressures.

Acoustic Impacts

HRG survey equipment use during the geophysical surveys may temporarily impact marine mammals in the area due to elevated in-water sound levels. Marine mammals are continually exposed to many sources of sound. Naturally occurring sounds such as lightning, rain, sub-sea earthquakes, and biological sounds (*e.g.,* snapping shrimp, whale songs) are widespread throughout the world's oceans. Marine mammals produce sounds in various contexts and use sound for various biological functions including, but not limited to: (1) Social interactions; (2) foraging; (3) orientation; and (4) predator detection. Interference with producing or receiving these sounds may result in adverse impacts. Audible distance, or received levels of sound depend on the nature of the sound source, ambient noise conditions, and the sensitivity of the receptor to the sound (Richardson *et al.,* 1995). Type and significance of marine mammal reactions to sound are likely dependent on a variety of factors including, but not limited to, (1) the behavioral state of the animal (*e.g.,* feeding, traveling, etc.); (2) frequency of the sound; (3) distance between the animal and the source; and (4) the level of the sound relative to ambient conditions (Southall *et al.,* 2007).

When sound travels (propagates) from its source, its loudness decreases as the distance traveled by the sound increases. Thus, the loudness of a sound at its source is higher than the loudness of that same sound a kilometer away. Acousticians often refer to the loudness of a sound at its source (typically referenced to one meter from the source) as the source level and the loudness of sound elsewhere as the received level (*i.e.,* typically the receiver). For example, a humpback whale 3 km from a device that has a source level of 230 dB may only be exposed to sound that is 160 dB loud, depending on how the sound travels through water (*e.g.,* spherical spreading (6 dB reduction with doubling of distance) was used in this example). As a result, it is important to understand the difference between source levels and received levels when discussing the loudness of sound in the ocean or its impacts on the marine environment.

As sound travels from a source, its propagation in water is influenced by various physical characteristics, including water temperature, depth, salinity, and surface and bottom properties that cause refraction, reflection, absorption, and scattering of sound waves. Oceans are not homogeneous and the contribution of each of these individual factors is extremely complex and interrelated. The physical characteristics that determine the sound's speed through the water will change with depth, season, geographic location, and with time of day (as a result, in actual active sonar operations, crews will measure oceanic conditions, such as sea water temperature and depth, to calibrate models that determine the path the sonar signal will take as it travels through the ocean and how strong the sound signal will be at a given range along a particular transmission path). As sound travels through the ocean, the intensity associated with the wavefront diminishes, or attenuates. This decrease in intensity is referred to as propagation loss, also commonly called transmission loss.

Hearing Impairment

Marine mammals may experience temporary or permanent hearing impairment when exposed to loud sounds. Hearing impairment is classified by temporary threshold shift (TTS) and permanent threshold shift (PTS). There are no empirical data for onset of PTS in any marine mammal; therefore, PTS-onset must be estimated from TTS-onset measurements and from the rate of TTS growth with increasing exposure levels above the level eliciting TTS-onset. PTS is considered auditory injury (Southall *et al.,* 2007) and occurs in a specific frequency range and amount. Irreparable damage to the inner or outer cochlear hair cells may cause PTS; however, other mechanisms are also involved, such as exceeding the elastic limits of certain tissues and membranes in the middle and inner ears and resultant changes in the chemical composition of the inner ear fluids (Southall *et al.,* 2007). Given the higher level of sound, longer durations of exposure necessary to cause PTS as compared with TTS, and the small zone within which sound levels would exceed criteria for onset of PTS, it is considerably less likely that PTS would occur during the proposed HRG surveys.

Temporary Threshold Shift

TTS is the mildest form of hearing impairment that can occur during exposure to a loud sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days, can be limited to a particular frequency range, and can occur to varying degrees (*i.e.,* a loss of a certain number of dBs of sensitivity). For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends.

Marine mammal hearing plays a critical role in communication with conspecifics and in 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 takes place during a time when the animals is traveling through the open ocean, 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 if it were in the same frequency band as the necessary vocalizations and of a severity that it impeded communication. The fact that animals exposed to levels and durations of sound that would be expected to result in this physiological response would also be expected to have behavioral responses of a comparatively more severe or sustained nature is also notable and potentially of more importance than the simple existence of a TTS.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin, beluga whale, harbor porpoise, and Yangtze finless porpoise) 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 and 2010; Nachtigall *et al.,* 2004; Kastak *et al.,* 2005; Lucke *et al.,* 2009; Mooney *et al.,* 2009; Popov *et al.,* 2011; Finneran and Schlundt, 2010). 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. However, even for these animals, which are better able to hear higher frequencies and may be more sensitive to higher frequencies, exposures on the order of approximately 170 dB_{RMS} or higher for brief transient signals are likely required for even temporary (recoverable) changes in hearing sensitivity that would likely not be categorized as physiologically damaging (Lucke *et al.,* 2009). 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 (of note, the source operating characteristics of some of Bay State Wind's proposed HRG survey equipment—*i.e.,* the equipment positioning systems—are unlikely to be audible to mysticetes). For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see NMFS (2016), Southall *et al.* (2007), Finneran and Jenkins (2012), and Finneran (2015).

Scientific literature highlights the inherent complexity of predicting TTS onset in marine mammals, as well as the importance of considering exposure duration when assessing potential impacts (Mooney *et al.,* 2009a, 2009b; Kastak *et al.,* 2007). Generally, with sound exposures of equal energy, quieter sounds (lower sound pressure level (SPL)) of longer duration were found to induce TTS onset more than louder sounds (higher SPL) of shorter duration (more similar to sub-bottom profilers). For intermittent sounds, less threshold shift will occur than from a continuous exposure with the same energy (some recovery will occur between intermittent exposures) (Kryter *et al.,* 1966; Ward, 1997). For sound exposures at or somewhat above the TTS-onset threshold, hearing sensitivity recovers rapidly after exposure to the sound ends; intermittent exposures recover faster in comparison with continuous exposures of the same duration (Finneran *et al.,* 2010). NMFS considers TTS as Level B harassment that is mediated by physiological effects on the auditory system; however, NMFS does not consider TTS-onset to be the lowest level at which Level B harassment may occur.

Marine mammals in the Lease Area during the HRG survey are unlikely to incur TTS hearing impairment due to the characteristics of the sound sources, which include low source levels (208 to 221 dB re 1 μPa-m) and generally very short pulses and duration of the sound. Even for high-frequency cetacean species (*e.g.,* harbor porpoises), which may have increased sensitivity to TTS (Lucke *et al.,* 2009; Kastelein *et al.,* 2012b), individuals would have to make a very close approach and also remain very close to vessels operating these sources in order to receive multiple exposures at relatively high levels, as would be necessary to cause TTS. Intermittent exposures—as would occur due to the brief, transient signals produced by these sources—require a higher cumulative SEL to induce TTS than would continuous exposures of the same duration (*i.e.,* intermittent exposure results in lower levels of TTS) (Mooney *et al.,* 2009a; Finneran *et al.,* 2010). Moreover, most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity as to result in TTS. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a sub-bottom profiler emits a pulse is small—because if the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause temporary threshold shift and would likely exhibit avoidance behavior to the area near the transducer rather than swim through at such a close range. Further, the restricted beam shape of the sub-bottom profiler and other HRG survey equipment makes it unlikely that an animal would be exposed more than briefly during the passage of the vessel. Boebel *et al.* (2005) concluded similarly for single and multibeam echosounders, and more recently, Lurton (2016) conducted a modeling exercise and concluded similarly that likely potential for acoustic injury from these types of systems is negligible, but that behavioral response cannot be ruled out. Animals may avoid the area around the survey vessels, thereby reducing exposure. Any disturbance to marine mammals is likely to be in the form of temporary avoidance or alteration of opportunistic foraging behavior near the survey location.

Masking

Masking is the obscuring of sounds of interest to an animal by other sounds, typically at similar frequencies. Marine mammals are highly dependent on sound, and their ability to recognize sound signals amid other sound is important in communication and detection of both predators and prey (Tyack, 2000). Background ambient sound may interfere with or mask the ability of an animal to detect a sound signal even when that signal is above its absolute hearing threshold. Even in the absence of anthropogenic sound, the marine environment is often loud. Natural ambient sound includes contributions from wind, waves, precipitation, other animals, and (at frequencies above 30 kHz) thermal sound resulting from molecular agitation (Richardson *et al.,* 1995).

Background sound may also include anthropogenic sound, and masking of natural sounds can result when human activities produce high levels of background sound. Conversely, if the background level of underwater sound is high (*e.g.,* on a day with strong wind and high waves), an anthropogenic sound source would not be detectable as far away as would be possible under quieter conditions and would itself be

masked. Ambient sound is highly variable on continental shelves (Thompson, 1965; Myrberg, 1978; Desharnais *et al.,* 1999). This results in a high degree of variability in the range at which marine mammals can detect anthropogenic sounds.

Although masking is a phenomenon which may occur naturally, the introduction of loud anthropogenic sounds into the marine environment at frequencies important to marine mammals increases the severity and frequency of occurrence of masking. For example, if a baleen whale is exposed to continuous low-frequency sound from an industrial source, this would reduce the size of the area around that whale within which it can hear the calls of another whale. The components of background noise that are similar in frequency to the signal in question primarily determine the degree of masking of that signal. In general, little is known about the degree to which marine mammals rely upon detection of sounds from conspecifics, predators, prey, or other natural sources. In the absence of specific information about the importance of detecting these natural sounds, it is not possible to predict the impact of masking on marine mammals (Richardson *et al.,* 1995). In general, masking effects are expected to be less severe when sounds are transient than when they are continuous. Masking is typically of greater concern for those marine mammals that utilize low-frequency communications, such as baleen whales, because of how far low-frequency sounds propagate.

Marine mammal communications would not likely be masked appreciably by the sub-profiler or pingers' signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam.

Non-Auditory Physical Effects (Stress)

Classic stress responses begin when an animal's central nervous system perceives a potential threat to its homeostasis. That perception triggers stress responses regardless of whether a stimulus actually threatens the animal; the mere perception of a threat is sufficient to trigger a stress response (Moberg, 2000; Seyle, 1950). Once an animal's central nervous system perceives a threat, it mounts a biological response or defense that consists of a combination of the four general biological defense responses: Behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses.

In the case of many stressors, an animal's first and sometimes most economical (in terms of biotic costs) response is behavioral avoidance of the potential stressor or avoidance of continued exposure to a stressor. An animal's second line of defense to stressors involves the sympathetic part of the autonomic nervous system and the classical ''fight or flight'' response which includes the cardiovascular system, the gastrointestinal system, the exocrine glands, and the adrenal medulla to produce changes in heart rate, blood pressure, and gastrointestinal activity that humans commonly associate with ''stress.'' These responses have a relatively short duration and may or may not have significant long-term effect on an animal's welfare.

An animal's third line of defense to stressors involves its neuroendocrine systems; the system that has received the most study has been the hypothalamus-pituitary-adrenal system (also known as the HPA axis in mammals or the hypothalamus-pituitary-interrenal axis in fish and some reptiles). Unlike stress responses associated with the autonomic nervous system, virtually all neuro-endocrine 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 (Moberg, 1987; Rivier, 1995), altered metabolism (Elasser *et al.,* 2000), reduced immune competence (Blecha, 2000), and behavioral disturbance. Increases in the circulation of glucocorticosteroids (cortisol, corticosterone, and aldosterone in marine mammals; see Romano *et al.,* 2004) have been equated with stress for many years.

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and distress is the biotic 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 a risk to the animal's welfare. 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 biotic function, which impairs those functions that experience the diversion. For example, when mounting a stress response diverts energy away from growth in young animals, those animals may experience stunted growth. When mounting a stress response diverts energy from a fetus, an animal's reproductive success and its fitness will suffer. In these cases, the animals will have entered a pre-pathological or pathological state which is called ''distress'' (Seyle, 1950) or ''allostatic loading'' (McEwen and Wingfield, 2003). This pathological state will last until the animal replenishes its biotic reserves sufficient to restore normal function. Note that these examples involved a long-term (days or weeks) stress response exposure to stimuli.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses have also been documented fairly well through controlled experiments; because this physiology exists in every vertebrate that has been studied, it is not surprising that stress responses and their costs have been documented in both laboratory and free-living animals (for examples see, Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005; Reneerkens *et al.,* 2002; Thompson and Hamer, 2000). Information has also been collected on the physiological responses of marine mammals to exposure to anthropogenic sounds (Fair and Becker, 2000; Romano *et al.,* 2002). 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. In a conceptual model developed by the Population Consequences of Acoustic Disturbance (PCAD) working group, serum hormones were identified as possible indicators of behavioral effects that are translated into altered rates of reproduction and mortality.

Studies of other marine animals and terrestrial animals would also lead us to expect some marine mammals to experience physiological stress responses and, perhaps, physiological responses that would be classified as ''distress'' upon exposure to high frequency, mid-frequency and low-frequency sounds. For example, Jansen (1998) reported on the relationship between acoustic exposures and physiological responses that are indicative of stress responses in humans (for example, elevated respiration and increased heart rates). Jones (1998) reported on reductions in human performance when faced with acute, repetitive exposures to acoustic disturbance. Trimper *et al.* (1998) reported on the physiological stress responses of osprey to low-level aircraft noise while Krausman *et al.* (2004) reported on the auditory and physiology stress responses of endangered Sonoran pronghorn to military overflights. Smith *et al.* (2004a, 2004b), for example, identified noise-induced physiological

transient stress responses in hearing-specialist fish (*i.e.,* goldfish) that accompanied short- and long-term hearing losses. Welch and Welch (1970) reported physiological and behavioral stress responses that accompanied damage to the inner ears of fish and several mammals.

Hearing is one of the primary senses marine mammals use to gather information about their environment and to communicate with conspecifics. Although empirical information on the relationship between sensory impairment (TTS, PTS, and acoustic masking) on marine mammals remains limited, it seems reasonable to assume that reducing an animal's ability to gather information about its environment and to communicate with other members of its species would be stressful for animals that use hearing as their primary sensory mechanism. Therefore, we assume that acoustic exposures sufficient to trigger onset PTS or TTS would be accompanied by physiological stress responses because terrestrial animals exhibit those responses under similar conditions (NRC, 2003). More importantly, marine mammals might experience stress responses at received levels lower than those necessary to trigger onset TTS. Based on empirical studies of the time required to recover from stress responses (Moberg, 2000), we also assume that stress responses are likely to persist beyond the time interval required for animals to recover from TTS and might result in pathological and pre-pathological states that would be as significant as behavioral responses to TTS.

In general, there are few data on the potential for strong, anthropogenic underwater sounds to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances 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). There is no definitive evidence that any of these effects occur even for marine mammals in close proximity to an anthropogenic sound source. In addition, marine mammals that show behavioral avoidance of survey vessels and related sound sources, are unlikely to incur non-auditory impairment or other physical effects. NMFS does not expect that the generally short-term, intermittent, and transitory HRG surveys would create conditions of long-term, continuous noise and chronic acoustic exposure leading to long-term physiological stress responses in marine mammals.

Behavioral Disturbance

Behavioral responses to sound are highly variable and context-specific. An animal's perception of and response to (in both nature and magnitude) an acoustic event can be influenced by prior experience, perceived proximity, bearing of the sound, familiarity of the sound, etc. (Southall *et al.,* 2007; DeRuiter *et al.,* 2013a and 2013b). 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).

Southall *et al.* (2007) reports the results of the efforts of a panel of experts in acoustic research from behavioral, physiological, and physical disciplines that convened and reviewed the available literature on marine mammal hearing and physiological and behavioral responses to human-made sound with the goal of proposing exposure criteria for certain effects. This peer-reviewed compilation of literature is very valuable, though Southall *et al.* (2007) note that not all data are equal, some have poor statistical power, insufficient controls, and/or limited information on received levels, background noise, and other potentially important contextual variables—such data were reviewed and sometimes used for qualitative illustration but were not included in the quantitative analysis for the criteria recommendations. All of the studies considered, however, contain an estimate of the received sound level when the animal exhibited the indicated response.

For purposes of analyzing responses of marine mammals to anthropogenic sound and developing criteria, NMFS (2016) differentiates between pulse (impulsive) sounds (single and multiple) and non-pulse sounds. For purposes of evaluating the potential for take of marine mammals resulting from underwater noise due to the conduct of the proposed HRG surveys (operation of USBL positioning system and the sub-bottom profilers), the criteria for Level A harassment (PTS onset) from impulsive noise was used as prescribed in NMFS (2016) and the threshold level for Level B harassment (160 dB_{RMS} re 1 μPa) was used to evaluate takes from behavioral harassment.

Studies that address responses of low-frequency cetaceans to sounds include data gathered in the field and related to several types of sound sources, including: vessel noise, drilling and machinery playback, low-frequency M-sequences (sine wave with multiple phase reversals) playback, tactical low-frequency active sonar playback, drill ships, and non-pulse playbacks. These studies generally indicate no (or very limited) responses to received levels in the 90 to 120 dB re: 1 μPa range and an increasing likelihood of avoidance and other behavioral effects in the 120 to 160 dB range. As mentioned earlier, though, contextual variables play a very important role in the reported responses and the severity of effects do not increase linearly with received levels. Also, few of the laboratory or field datasets had common conditions, behavioral contexts, or sound sources, so it is not surprising that responses differ.

The studies that address responses of mid-frequency cetaceans to sounds include data gathered both in the field and the laboratory and related to several different sound sources, including: Pingers, drilling playbacks, ship and ice-breaking noise, vessel noise, Acoustic harassment devices (AHDs), Acoustic Deterrent Devices (ADDs), mid-frequency active sonar, and non-pulse bands and tones. Southall *et al.* (2007) were unable to come to a clear conclusion regarding the results of these studies. In some cases animals in the field showed significant responses to received levels between 90 and 120 dB, while in other cases these responses were not seen in the 120 to 150 dB range. The disparity in results was likely due to contextual variation and the differences between the results in the field and laboratory data (animals typically responded at lower levels in the field). The studies that address the responses of mid-frequency cetaceans to impulse sounds include data gathered both in the field and the laboratory and related to several different sound sources, including: Small explosives, airgun arrays, pulse sequences, and natural and artificial pulses. The data show no clear indication of increasing probability and severity of response with increasing received level. Behavioral responses seem to vary depending on species and stimuli.

The studies that address responses of high-frequency cetaceans to sounds include data gathered both in the field and the laboratory and related to several different sound sources, including: pingers, AHDs, and various laboratory non-pulse sounds. All of these data were collected from harbor porpoises.

Southall *et al.* (2007) concluded that the existing data indicate that harbor porpoises are likely sensitive to a wide range of anthropogenic sounds at low received levels (around 90 to 120 dB), at least for initial exposures. All recorded exposures above 140 dB induced profound and sustained avoidance behavior in wild harbor porpoises (Southall *et al.,* 2007). Rapid habituation was noted in some but not all studies.

The studies that address the responses of pinnipeds in water to sounds include data gathered both in the field and the laboratory and related to several different sound sources, including: AHDs, various non-pulse sounds used in underwater data communication, underwater drilling, and construction noise. Few studies exist with enough information to include them in the analysis. The limited data suggest that exposures to non-pulse sounds between 90 and 140 dB generally do not result in strong behavioral responses of pinnipeds in water, but no data exist at higher received levels (Southall *et al.,* 2007). The studies that address the responses of pinnipeds in water to impulse sounds include data gathered in the field and related to several different sources, including: small explosives, impact pile driving, and airgun arrays. Quantitative data on reactions of pinnipeds to impulse sounds is limited, but a general finding is that exposures in the 150 to 180 dB range generally have limited potential to induce avoidance behavior (Southall *et al.,* 2007).

Marine mammals are likely to avoid the HRG survey activity, especially harbor porpoises, while the harbor seals might be attracted to them out of curiosity. However, because the sub-bottom profilers and other HRG survey equipment operate from a moving vessel, and the field-verified distance to the 160 dB_{RMS} re 1μPa isopleth (Level B harassment criteria) is 247 ft (75.28 m), the area and time that this equipment would be affecting a given location is very small. Further, once an area has been surveyed, it is not likely that it will be surveyed again, therefore reducing the likelihood of repeated HRG-related impacts within the survey area.

We have also considered the potential for severe behavioral responses such as stranding and associated indirect injury or mortality from Bay State Wind's use of HRG survey equipment, on the basis of a 2008 mass stranding of approximately one hundred melon-headed whales in a Madagascar lagoon system. An investigation of the event indicated that use of a high-frequency mapping system (12-kHz multibeam echosounder) was the most plausible and likely initial behavioral trigger of the event, while providing the caveat that there is no unequivocal and easily identifiable single cause (Southall *et al.,* 2013). The investigatory panel's conclusion was based on (1) very close temporal and spatial association and directed movement of the survey with the stranding event; (2) the unusual nature of such an event coupled with previously documented apparent behavioral sensitivity of the species to other sound types (Southall *et al.,* 2006; Brownell *et al.,* 2009); and (3) the fact that all other possible factors considered were determined to be unlikely causes. Specifically, regarding survey patterns prior to the event and in relation to bathymetry, the vessel transited in a north-south direction on the shelf break parallel to the shore, ensonifying large areas of deep-water habitat prior to operating intermittently in a concentrated area offshore from the stranding site; this may have trapped the animals between the sound source and the shore, thus driving them towards the lagoon system. The investigatory panel systematically excluded or deemed highly unlikely nearly all potential reasons for these animals leaving their typical pelagic habitat for an area extremely atypical for the species (*i.e.,* a shallow lagoon system). Notably, this was the first time that such a system has been associated with a stranding event. The panel also noted several site- and situation-specific secondary factors that may have contributed to the avoidance responses that led to the eventual entrapment and mortality of the whales. Specifically, shoreward-directed surface currents and elevated chlorophyll levels in the area preceding the event may have played a role (Southall *et al.,* 2013).

The report also notes that prior use of a similar system in the general area may have sensitized the animals and also concluded that, for odontocete cetaceans that hear well in higher frequency ranges where ambient noise is typically quite low, high-power active sonars operating in this range may be more easily audible and have potential effects over larger areas than low frequency systems that have more typically been considered in terms of anthropogenic noise impacts. It is, however, important to note that the relatively lower output frequency, higher output power, and complex nature of the system implicated in this event, in context of the other factors noted here, likely produced a fairly unusual set of circumstances that indicate that such events would likely remain rare and are not necessarily relevant to use of lower-power, higher-frequency systems more commonly used for HRG survey applications. The risk of similar events recurring may be very low, given the extensive use of active acoustic systems used for scientific and navigational purposes worldwide on a daily basis and the lack of direct evidence of such responses previously reported.

Tolerance

Numerous studies have shown that underwater sounds from industrial activities are often readily detectable by marine mammals in the water at distances of many kms. However, other studies have shown that marine mammals at distances more than a few kilometers away often show no apparent response to industrial activities of various types (Miller *et al.,* 2005). This is often true even in cases when the sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of that mammal group. Although various baleen whales, toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to underwater sound from sources such as airgun pulses or vessels under some conditions, at other times, mammals of all three types have shown no overt reactions (*e.g.,* Malme *et al.,* 1986; Richardson *et al.,* 1995; Madsen and Mohl, 2000; Croll *et al.,* 2001; Jacobs and Terhune, 2002; Madsen *et al.,* 2002; Miller *et al.,* 2005). In general, pinnipeds seem to be more tolerant of exposure to some types of underwater sound than are baleen whales. Richardson *et al.* (1995) found that vessel sound does not seem to strongly affect pinnipeds that are already in the water. Richardson *et al.* (1995) went on to explain that seals on haul-outs sometimes respond strongly to the presence of vessels and at other times appear to show considerable tolerance of vessels, and Brueggeman *et al.* (1992) observed ringed seals (*Pusa hispida*) hauled out on ice pans displaying short-term escape reactions when a ship approached within 0.16–0.31 mi (0.25–0.5 km). Due to the relatively high vessel traffic in the Lease Area it is possible that marine mammals are habituated to noise from project vessels in the area.

Vessel Strike

Ship strikes of marine mammals can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit

the bottom of a vessel, or a vessel's propeller could injure an animal just below the surface. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (*e.g.,* the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (*e.g.,* bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records with known vessel speeds, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 24.1 km/h (14.9 mph; 13 knots). Given the slow vessel speeds and predictable course necessary for data acquisition, ship strike is unlikely to occur during the geophysical and geotechnical surveys. Marine mammals would be able to easily avoid vessels and are likely already habituated to the presence of numerous vessels in the area. Further, Bay State Wind shall implement measures (*e.g.,* vessel speed restrictions and separation distances; see *Proposed Mitigation Measures*) set forth in the BOEM Lease to reduce the risk of a vessel strike to marine mammal species in the Lease Area.

Effects on Marine Mammal Habitat

There are no feeding areas, rookeries, or mating grounds known to be biologically important to marine mammals within the proposed project area. There is also no designated critical habitat for any ESA-listed marine mammals. NMFS' regulations at 50 CFR part 224 designated the nearshore waters of the Mid-Atlantic Bight as the Mid-Atlantic U.S. Seasonal Management Area (SMA) for right whales in 2008. Mandatory vessel speed restrictions are in place in that SMA from November 1 through April 30 to reduce the threat of collisions between ships and right whales around their migratory route and calving grounds.

Because of the temporary nature of the disturbance, the availability of similar habitat and resources (*e.g.,* prey species) in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize 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' 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, 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 the HRG equipment (*i.e.,* USBL&GAPS systems, sub-bottom profilers, sparkers, and boomers) has the potential to result in disruption of behavioral patterns for individual marine mammals. However, there is also some potential for auditory injury (Level A harassment) to result, primarily for high frequency species (*i.e.,* harbor porpoise) due to larger predicted auditory injury zones. Auditory injury is unlikely to occur for low or mid-frequency cetaceans or pinnipeds. The proposed mitigation and monitoring measures are expected to avoid, or minimize the severity of such taking, to the extent practicable.

Project activities that have the potential to harass marine mammals, as defined by the MMPA, include underwater noise from operation of the HRG survey sub-bottom profilers, boomers, sparkers, and equipment positioning systems. Harassment could take the form of temporary threshold shift, avoidance, or other changes in marine mammal behavior. NMFS anticipates that impacts to marine mammals would be mainly in the form of behavioral harassment (Level B harassment), but we have evaluated a small number of PTS takes (Level A harassment) for high frequency species (harbor porpoise) to be precautionary. No take by serious injury, or mortality is proposed. NMFS does not anticipate take resulting from the movement of vessels associated with construction because there will be a limited number of vessels moving at slow speeds and the BOEM lease agreement requires measures to ensure vessel strike avoidance.

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

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

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. Bay State Wind's proposed activity includes the use of intermittent impulsive (HRG Equipment) sources, and therefore the 160 dB re 1 μPa (rms) threshold is 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).

These thresholds are provided in Table 4 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 4—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^{2}s. 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 weighted 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.

When NMFS' Acoustic 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 of the new thresholds, NMFS developed an optional User Spreadsheet that includes tools 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 mobile sources such as the HRG survey equipment proposed for use in Bay State Wind's activity, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed. Inputs used in the User Spreadsheet, and the resulting isopleths for the various HRG equipment types are reported in Appendix A of Bay State Wind's IHA application, and distances to the acoustic exposure criteria discussed above are shown in Tables 5 and 6.

TABLE 5—DISTANCES TO THRESHOLDS FOR LEVEL A HARASSMENT

[PTS onset]

Generalized hearing group	Marine mammal level A harassment (PTS onset)	Distance (m)
USBL/GAPS Positioning Systems [1]		
LF cetaceans	219 dB_{peak}/	—
	183 dB SEL_{cum}	—
MF cetaceans	230 dB_{peak}/	—
	185 dB SEL_{cum}	—
HF cetaceans	202 dB_{peak}/	—
	155 dB SEL_{cum}	—
Phocid pinnipeds	218 dB_{peak}/	—
	185 dB SEL_{cum}	—
Sub-bottom Profiler [1]		
LF cetaceans	219 dB_{peak}/	—
	183 dB SEL_{cum}	—

TABLE 5—DISTANCES TO THRESHOLDS FOR LEVEL A HARASSMENT—Continued

[PTS onset]

Generalized hearing group	Marine mammal level A harassment (PTS onset)	Distance (m)
MF cetaceans	230 dB_{peak}/	—
	185 dB SEL_{cum}	—
HF cetaceans	202 dB_{peak}/	—
	155 dB SEL_{cum}	<6
Phocid pinnipeds	218 dB_{peak}/	—
	185 dB SEL_{cum}	—
Innomar SES–2000 Medium Sub-Bottom Profiler		
LF cetaceans	219 dB_{peak}/	<1
	183 dB SEL_{cum}	N/A
MF cetaceans	230 dB_{peak}/	<1
	185 dB SEL_{cum}	—
HF cetaceans	202 dB_{peak}/	<5
	155 dB SEL_{cum}	<75
Phocid pinnipeds	218 dB_{peak}/	<1
	185 dB SEL_{cum}	N/A
Sparker [1]		
LF cetaceans	219 dB_{peak}/	—
	183 dB SEL_{cum}	—
MF cetaceans	230 dB_{peak}/	—
	185 dB SEL_{cum}	—
HF cetaceans	202 dB_{peak}/	<3
	155 dB SEL_{cum}	—
Phocid pinnipeds	218 dB_{peak}/	—
	185 dB SEL_{cum}	—
Boomer		
LF cetaceans	219 dB_{peak}/	<2
	183 dB SEL_{cum}	<15
MF cetaceans	230 dB_{peak}/	—
	185 dB SEL_{cum}	—
HF cetaceans	202 dB_{peak}/	<10
	155 dB SEL_{cum}	<1
Phocid pinnipeds	218 dB_{peak}/	<2
	185 dB SEL_{cum}	<1

Notes:

Peak SPL criterion is unweighted, whereas the cumulative SEL criterion is M-weighted for the given marine mammal hearing group;

Calculated sound levels and results are based on NMFS Acoustic Technical Guidance companion User Spreadsheet except as indicated (refer to Appendix A of the IHA application, which includes all spreadsheets);

[1] Indicates distances for this equipment type have been field verified;

—Indicates not expected.

TABLE 6—DISTANCES TO LEVEL B HARASSMENT THRESHOLDS

[160 $dB_{RMS\ 90\%}$]

Survey equipment	Marine mammal level B harassment 160 dB_{RMS} re 1 μPa (m)
USBL & GAPS Positioning Systems	
Sonardyne Ranger 2 USBL HPT 5/7000	6
Sonardyne Ranger 2 USBL HPT 3000	1
Easytrak Nexus 2 USBL	2
IxSea GAPS System	1
Sidescan Sonar	
EdgeTech 4200 dual frequency Side Scan Sonar	N/A

TABLE 6—DISTANCES TO LEVEL B HARASSMENT THRESHOLDS—Continued

[160 $dB_{RMS\ 90\%}$]

Survey equipment	Marine mammal level B harassment 160 dB_{RMS} re 1 μPa (m)
Multibeam Sonar	
R2 Sonic 2024 Multibeam Echosounder	N/A
Kongsberg EM2040C Dual Band Head	N/A
Shallow Sub-Bottom Profilers	
Edgetech 3200 XS 216	9
Innomar SES–2000 Sub Bottom Profiler	[1] 135
Sparkers	
GeoMarine Geo-Source 400tip	54
Boomers	
Applied Acoustics S-Boom Triple Plate Boomer	[1] 400

Notes:
[1] The calculated sound levels and results are based on NMFS Acoustic Technical Guidance (NMFS 2016) except as indicated.
The Level B criterion is unweighted.
N/A indicates the operating frequencies are above all relevant marine mammal hearing thresholds and these systems were not directly assessed in this IHA.

Bay State Wind completed an underwater noise monitoring program for field verification at the project site prior to commencement of the HRG survey that took place in 2016. One of the main objectives of this program was to determine the apparent sound source levels of HRG activities. Results from field verification studies during previously authorized activities were used where applicable and manufacturer source levels were adjusted to reflect the field verified levels. However, not all equipment proposed for use in the 2018 season was used in the 2016 activities. As no field data currently exists for the Innomar sub-bottom profiler or Applied Acoustics boomer, acoustic modeling was completed using a version of the U.S. Naval Research Laboratory's Range-dependent Acoustic Model (RAM) and BELLHOP Gaussian beam ray-trace propagation model (Porter and Liu 1994). Calculations of the ensonified area are conservative due to the directionality of the sound sources. For the various HRG transducers Bay State Wind proposes to use for these activities, the beamwidth varies from 200° (almost omnidirectional) to 1°. The modeled directional sound levels were then used as the input for the acoustic propagation models, which do not take the directionality of the source into account. Therefore, the volume of area affected would be much lower than modeled in cases with narrow beamwidths such as the Innomar SES–2000 sub-bottom profiler, which has a 1° beamwidth.

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.

The data used as the basis for estimating species density (''D'') for the Lease Area are derived from data provided by Duke University's Marine Geospatial Ecology Lab and the Marine Life Data and Analysis Team. This data set is a compilation of the best available marine mammal data (1994–2014) and was prepared in a collaboration between Duke University, Northeast Regional Planning Body, University of Carolina, the Virginia Aquarium and Marine Science Center, and NOAA (Roberts *et al.,* 2016; MDAT 2016).

Northeast Navy Operations Area (OPAREA) Density Estimates (DoN, 2007) were used in support for estimating take for seals, which represents the only available comprehensive data for seal abundance. NODEs utilized vessel-based and aerial survey data collected by NMFS from 1998–2005 during broad-scale abundance studies. Modeling methodology is detailed in DoN (2007). Therefore, for the purposes of the take calculations, NODEs Density Estimates (DoN, 2007) as reported for the summer and fall seasons were used to estimate harbor seal and gray seal densities.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in harassment, radial distances to predicted isopleths corresponding to harassment thresholds are calculated, as described above. Those distances are then used to calculate the area(s) around the HRG survey equipment predicted to be ensonified to sound levels that exceed harassment thresholds. The area estimated to be ensonified to relevant thresholds in a single day of the survey is then calculated, based on areas predicted to be ensonified around the HRG survey equipment and the estimated trackline distance traveled per day by the survey vessel.

The estimated distance of the daily vessel trackline was determined using the estimated average speed of the vessel and the 24-hour or daylight-only operational period within each of the corresponding survey segments. All noise producing survey equipment are assumed to be operating concurrently. Using the distance of 400 m (1,312 ft) to the Level B isopleth and 75 m (246.1 ft) for the Level A isopleth (for harbor

porpoise), and the estimated daily vessel track of approximately 177.8 km (110.5 miles) for 24-hour operations and 43 km (26.7 miles) for daylight-only operations, areas of ensonification (zone of influence, or ZOI) were calculated and used as a basis for calculating takes of marine mammals. The ZOI is based on the worst case (since it assumes the equipment with the larger ZOI will be operating all the time), and are presented in Table 7. Take calculations were based on the highest seasonal species density as derived from Duke University density data (Roberts *et al.,* 2016) for cetaceans and seasonal OPAREA density estimates (DoN, 2007) for pinnipeds. The resulting take calculations and number of requested takes (rounded to the nearest whole number) are presented in Table 8.

TABLE 7—SURVEY SEGMENT DISTANCES AND ZONES OF INFLUENCE

Survey segment	Total track line (km)	Number of active survey days	Estimated distance/day (km)	Calculated level A ZOI (km^2)—(harbor porpoise)	Calculated level B ZOI (km^2)
Lot 3 (WSG/OSS Location—Offshore)	2,845	60	177.8	26.69	142.74
Export Cable Route, Somerset					
Lot 1 (nearshore)	1,091	18	177.8	6.46	34.88
Lot 2 (offshore)	563	15	43.0	26.69	142.74
Export Cable Route, Falmouth					
Lot 4 (offshore)	2,253	37	177.8	26.69	142.74
Lot 5 (nearshore)	108	5	43.0	6.46	34.88

TABLE 8—ESTIMATED LEVEL B HARASSMENT TAKES FOR HRG SURVEY ACTIVITIES

Species	Lot 3 (WSG/OSS location—offshore)		Lot 2 (Somerset export—offshore)		Lot 1 (Somerset export—nearshore)		Lot 4 (Falmouth export—offshore)		Lot 5 (Falmouth export—nearshore)		Totals	
	Highest seasonal avg. density [a] (#/100 km^2)	Calc. take	Highest seasonal avg. density [a] (#/100 km^2)	Calc. take	Highest seasonal avg. density [a] (#/100 km^2)	Calc. take	Highest seasonal avg. density [a] (#/100 km^2)	Calc. take	Highest seasonal avg. density [a] (#/100 km^2)	Calc. take	Requested take	% of population
Level A												
Harbor porpoise	6.67	106.75	4.89	19.56	.....	.....	1.1	10.95	.....	.....	137	0.17
Level B												
North Atlantic right whale	0.96	82.22 (0.00)	1.25	26.76 (0.00)	.....	.....	0.79	41.72 (0.00)	.....	.....	[b] 0.00	0.00
Humpback whale	0.15	12.44	0.12	2.46	.....	.....	0.04	2.30	.....	.....	18	2.18
Fin whale	0.27	23.24	0.19	4.15	.....	.....	0.07	3.64	.....	.....	32	1.98
Sperm whale	0.01	0.71	0.01	0.15	.....	.....	0.00	0.22	.....	.....	[c] 5	0.22
Minke whale	0.08	7.00	0.05	1.14	.....	.....	0.03	1.82	.....	.....	[d] 20	0.77
Bottlenose dolphin	1.72	147.34	0.46	9.85	.....	.....	9.00	475.06	.....	.....	[c] 1,000	8.66
Short-beaked common dolphin	6.26	535.71	2.74	58.67	.....	.....	0.46	24.34	.....	.....	[d] 2,000	2.85
Atlantic white-sided dolphin	1.90	162.75	1.07	22.98	.....	.....	0.21	10.85	.....	.....	[c] 500	1.02
Harbor porpoise	6.67	570.94	4.89	104.61	.....	.....	1.11	58.57	.....	.....	755	0.95
Harbor seal [e]	9.74	834.41	9.74	208.60	9.74	61.15	9.74	514.55	9.74	16.99	1,654	2.18
Gray seal [e]	14.12	1,209.26	14.12	302.32	14.12	88.65	14.12	745.71	14.12	24.62	2,397	0.56

Notes:
[a] Density values from Duke University (Roberts *et al.,* 2016) except for pinnipeds.
[b] Exclusion zone exceeds Level B isopleth; take adjusted to 0 given mitigation to prevent take.
[c] Value increased to reflect typical group size.
[d] Adjusted to account for actual take sighting data in the Survey Area to date (Smultea Environmental Sciences, 2016; Gardline, 2016).
[e] Density from NODEs (DoN, 2007).

As noted in Table 8, requested take estimates were adjusted to account for typical group size for sperm whales, bottlenose dolphins, and Atlantic white-sided dolphins. Requested take numbers were also adjusted to account for recent sightings data (Smultea Environmental Sciences, 2016; Gardline, 2016) for minke whales and short-beaked common dolphins. In addition, requested Level A take numbers for harbor porpoise were adjusted to account for the fact that a Level A shutdown zone encompassing the Level A harassment zone will be implemented to avoid Level A takes of this species. Finally, requested take numbers were adjusted for north Atlantic right whales due to the implementation of a 500 m shutdown zone, which is greater than the 400 m Level B behavioral harassment zone, to avoid Level B takes of this species.

Bay State Wind's calculations do not take into account whether a single animal is harassed multiple times or whether each exposure is a different animal. Therefore, the numbers in Tables 6 are the maximum number of animals that may be harassed during the HRG surveys (*i.e.,* Bay State Wind assumes that each exposure event is a

different animal). With exception of north Atlantic right whales and Level A takes of harbor porpoises, these estimates do not account for prescribed mitigation measures that Bay State Wind would implement during the specified activities and the fact that other mitigation measures may be imposed as part of other agreements that Bay State Wind must adhere to, such as their lease agreement with BOEM.

NMFS proposes to authorize a small number of Level A takes of harbor porpoises even though NMFS has also proposed a 75 m shut down zone to avoid Level A take of this species. This is warranted due to the small size of the species in combination with some higher sea states and weather conditions that could make harbor porpoises more cryptic and difficult to observe at the 75 m shut down zone. For reasons discussed above (short pulse duration and highly directional sound pulse transmission of these mobile sources), PTS (Level A take) is unlikely to occur even if harbor porpoises were within the 75 m isopleth. However, out of an abundance of caution, NMFS proposes to authorize Level A take of harbor porpoises.

No take of north Atlantic right whale is requested, nor is any take proposed for authorization. The modeled Level B behavioral harassment (400 m) is well within the 500 m mitigation shut down for this species and, based on the described monitoring measures, information from previous monitoring reports, and in consideration of the size of this species, it is reasonable to expect that north Atlantic right whales will be able to be observed such that shut down would occur well beyond the threshold for potential behavioral harassment.

Finally, as stated above, calculation of the ensonified area does not take directionality of the sound source into account and results in a conservative estimate for the ZOI. The equipment with the largest radial distance to Level A (for harbor porpoise) and Level B harassment thresholds was used to calculate the ZOI under the assumption that this equipment would be in use for the entirety of the survey activities. The Innomar SES–2000 sub-bottom profiler resulted in the largest isopleth for Level A harassment for HF cetaceans (harbor porpoise), so the ZOI was calculated based on this 75 m isopleth. However, as also described above, this equipment has a 1° beamwidth, so the actual ensonified volume would be much less than the calculated area. Similarly, the Applied Acoustics S-Boom triple plate boomer resulted in the largest isopleth for Level B harassment, so the ZOI was calculated using this 400 m isopleth and, as described above, this equipment has a beamwidth of 25°—35° and is also not omnidirectional so the actual ensonified volume would be less than the calculated area. Therefore, the resulting number of calculated marine mammal incidental takes are very conservative due to the assumption that the equipment with the largest isopleths are in use for the duration of activities and the calculated ZOIs do not take directionality of these sound sources into account. Further, the calculated takes are conservative because these HRG sound sources have very short pulse durations that are also not taken into account in calculations of take, but would lessen the potential for marine mammals to be exposed to the sound source for long enough periods to result in the potential for take as described above.

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) and 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.

With NMFS' input during the application process, Bay State Wind is proposing the following mitigation measures during site characterization surveys utilizing HRG survey equipment. The mitigation measures outlined in this section are based on protocols and procedures that have been successfully implemented and resulted in no observed take of marine mammals for similar offshore projects and previously approved by NMFS (DONG Energy, 2016, ESS, 2013; Dominion, 2013 and 2014), as well as results of sound source verification (SSV) studies implemented by Bay State Wind during past activities in the proposed project area.

Marine Mammal Exclusion and Monitoring Zones

Protected species observers (PSOs) will monitor the following exclusion/monitoring zones for the presence of marine mammals:

- A 1,640 ft (500-m) exclusion zone for North Atlantic right whales, which encompasses the largest Level B harassment isopleth of 400 m for the Applied Acoustics S-Boom Triple Plate Boomer;
- A 328 ft (100-m) exclusion zone for non-delphinoid large cetacean and ESA-listed marine mammals, which is consistent with vessel strike avoidance measures stipulated in the BOEM lease;
- A 1,312 ft (400-m) Level B monitoring zone for all marine mammals except for North Atlantic right whales, which is the extent of the largest Level B harassment isopleth for the Applied Acoustics S-Boom Triple Plate Boomer; and
- A 246 ft (75-m) exclusion zone for harbor porpoise, which is the extent of the largest Level A harassment isopleth for the Innomar SES–2000 medium sub-bottom profiler.

The distances from the sound sources for these exclusion/monitoring zones are based on distances to NMFS harassment criteria or requirements of the BOEM lease stipulations for vessel strike avoidance (discussed below). The representative area ensonified to the MMPA Level B threshold for each of the pieces of HRG survey equipment represents the zone within which take

of a marine mammal could occur. The distances to the Level A and Level B harassment criteria were used to support the estimate of take as well as the development of the monitoring and/or mitigation measures. Radial distance to NMFS' Level A and Level B harassment thresholds are summarized in Tables 5 and 6 above.

Visual monitoring of the established exclusion zone(s) for the HRG surveys will be performed by qualified and NMFS-approved PSOs, the resumes of whom will be provided to NMFS for review and approval prior to the start of survey activities. Observer qualifications will include direct field experience on a marine mammal observation vessel and/or aerial surveys in the Atlantic Ocean/Gulf of Mexico. An observer team comprising a minimum of four NMFS-approved PSOs and two certified Passive Acoustic Monitoring (PAM) operators (PAM operators will not function as PSOs), operating in shifts, will be stationed aboard either the survey vessel or a dedicated PSO-vessel. PSOs and PAM operators will work in shifts such that no one monitor will work more than 4 consecutive hours without a 2-hour break or longer than 12 hours during any 24-hour period. During daylight hours the PSOs will rotate in shifts of 1 on and 3 off, while during nighttime operations PSOs will work in pairs. The PAM operators will also be on call as necessary during daytime operations should visual observations become impaired. Each PSO will monitor 360 degrees of the field of vision.

PSOs will be responsible for visually monitoring and identifying marine mammals approaching or within the established exclusion zone(s) during survey activities. It will be the responsibility of the Lead PSO on duty to communicate the presence of marine mammals as well as to communicate and ensure the action(s) that are necessary to ensure mitigation and monitoring requirements are implemented as appropriate. PAM operators will communicate detected vocalizations to the Lead PSO on duty, who will then be responsible for implementing the necessary mitigation procedures. A mitigation and monitoring communications flow diagram has been included as Appendix A in the IHA application.

PSOs will be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or exclusion zone using range finders. Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine species. Digital single-lens reflex camera equipment will be used to record sightings and verify species identification. During night operations, PAM (see *Passive Acoustic Monitoring* requirements below) and night-vision equipment in combination with infrared video monitoring will be used (Additional details and specifications of the night-vision devices and infrared video monitoring technology will be provided under separate cover by the Bay State Wind Survey Contractor once selected.). Position data will be recorded using hand-held or vessel global positioning system (GPS) units for each sighting.

For monitoring around the ASV, a dual thermal/HD camera will be installed on the mother vessel, facing forward, angled in a direction so as to provide a field of view ahead of the vessel and around the ASV. The ASV will be kept in sight of the mother vessel at all times (within 2,625 ft (800 m)). PSOs will be able to monitor the real time output of the camera on hand-held iPads. Images from the cameras can be captured for review and to assist in verifying species identification. A monitor will also be installed on the bridge displaying the real-time picture from the thermal/HD camera installed on the front of the ASV itself, providing a further forward field of view of the craft. In addition, night-vision goggles with thermal clip-ons, as mentioned above, and a hand-held spotlight will be provided such that PSOs can focus observations in any direction, around the mother vessel and/or the ASV. PSOs will also be able to monitor the data as it is acquired by the ASV utilizing a real time IP radio link. For each 12 hour shift, an ASV technician will be assigned to manage the vessel and monitor the array of cameras, radars, and thermal equipment during their shift to ensure the vehicle is operating properly and to take over control of the vessel should the need arise. Additionally, there will be 2 survey technicians per shift assigned to acquire the ASV survey data.

The PSOs will begin observation of the exclusion zone(s) at least 60 minutes prior to ramp-up of HRG survey equipment. Use of noise-producing equipment will not begin until the exclusion zone is clear of all marine mammals for at least 60 minutes, as per the requirements of the BOEM Lease.

If a marine mammal is detected approaching or entering the exclusion zones during the HRG survey, the vessel operator would adhere to the shutdown procedures described below to minimize noise impacts on the animals.

At all times, the vessel operator will maintain a separation distance of 500 m from any sighted North Atlantic right whale as stipulated in the *Vessel Strike Avoidance* procedures described below. These stated requirements will be included in the site-specific training to be provided to the survey team.

Vessel Strike Avoidance

The Applicant will ensure that vessel operators and crew maintain a vigilant watch for cetaceans and pinnipeds and slow down or stop their vessels to avoid striking these species. Survey vessel crew members responsible for navigation duties will receive site-specific training on marine mammal and sea turtle sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures will include the following, except under extraordinary circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

- All vessel operators will comply with 10 knot (<18.5 km per hour (km/h)) speed restrictions in any Dynamic Management Area (DMA). In addition, all vessels operating from November 1 through July 31 will operate at speeds of 10 knots (<18.5 km/h) or less;
- All vessel operators will reduce vessel speed to 10 knots or less when mother/calf pairs, pods, or larger assemblages of non-delphinoid cetaceans are observed near an underway vessel;
- All survey vessels will maintain a separation distance of 1,640 ft (500 m) or greater from any sighted North Atlantic right whale;
- If underway, vessels must steer a course away from any sighted North Atlantic right whale at 10 knots (<18.5 km/h) or less until the 1,640 ft (500 m) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 330 ft (100 m) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 330 ft (100 m). If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 330 ft (100 m);
- All vessels will maintain a separation distance of 330 ft (100 m) or greater from any sighted non-delphinoid (*i.e.,* mysticetes and sperm whales) cetaceans. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 330 ft

(100 m). If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 330 ft (100 m);

- All underway vessels will avoid excessive speed or abrupt changes in direction to avoid injury to any sighted delphinoid cetacean or pinniped; and
- All vessels will maintain a separation distance of 164 ft (50 m) or greater from any sighted pinniped.

The training program will be provided to NMFS for review and approval prior to the start of surveys. Confirmation of the training and understanding of the requirements will be documented on a training course log sheet. Signing the log sheet will certify that the crew members understand and will comply with the necessary requirements throughout the survey event.

Seasonal Operating Requirements

Between watch shifts, members of the monitoring team will consult the NMFS North Atlantic right whale reporting systems for the presence of North Atlantic right whales throughout survey operations. However, the proposed survey activities will occur outside of the seasonal management area (SMA) located off the coast of Massachusetts and Rhode Island. The proposed survey activities will occur in June through September, which is outside of the seasonal mandatory speed restriction period for this SMA (November 1 through April 30).

Throughout all survey operations, the Applicant will monitor the NMFS North Atlantic right whale reporting systems for the establishment of a DMA. If NMFS should establish a DMA in the Lease Area under survey, within 24 hours of the establishment of the DMA the Applicant will work with NMFS to shut down and/or alter the survey activities to avoid the DMA.

Passive Acoustic Monitoring

As per the BOEM Lease, alternative monitoring technologies (*e.g.,* active or passive acoustic monitoring) are required if a Lessee intends to conduct geophysical surveys at night or when visual observation is otherwise impaired. To support 24-hour HRG survey operations, Bay State Wind will use certified PAM operators with experience reviewing and identifying recorded marine mammal vocalizations, as part of the project monitoring during nighttime operations to provide for optimal acquisition of species detections at night, or as needed during periods when visual observations may be impaired. In addition, PAM systems shall be employed during daylight hours to support system calibration and PSO and PAM team coordination, as well as in support of efforts to evaluate the effectiveness of the various mitigation techniques (*i.e.,* visual observations during day and night, compared to the PAM detections/operations).

Given the range of species that could occur in the Lease Area, the PAM system will consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kHz to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 10 Hz to 30 kHz). Monitoring of the PAM system will be conducted from a customized processing station aboard the HRG survey vessel. The on-board processing station provides the interface between the PAM system and the operator. The PAM operator(s) will monitor the hydrophone signals in real time both aurally (using headphones) and visually (via the monitor screen displays). Bay State Wind proposes the use of PAMGuard software for 'target motion analysis' to support localization in relation to the identified exclusion zone. PAMGuard is an open source software/hardware interface to enable flexibility in the configuration of in-sea equipment (number of hydrophones, sensitivities, spacing, and geometry). PAM operators will immediately communicate detections/vocalizations to the Lead PSO on duty who will ensure the implementation of the appropriate mitigation measure (*e.g.,* shutdown) even if visual observations by PSOs have not been made.

Ramp-Up

As per the BOEM Lease, a ramp-up procedure will be used for HRG survey equipment capable of adjusting energy levels at the start or re-start of HRG survey activities. A ramp-up procedure will be used at the beginning of HRG survey activities in order to provide additional protection to marine mammals near the Lease Area by allowing them to vacate the area prior to the commencement of survey equipment use. The ramp-up procedure will not be initiated during daytime, night time, or periods of inclement weather if the exclusion zone cannot be adequately monitored by the PSOs using the appropriate visual technology (*e.g.,* reticulated binoculars, night vision equipment) and/or PAM for a 60-minute period. A ramp-up would begin with the power of the smallest acoustic HRG equipment at its lowest practical power output appropriate for the survey. The power would then be gradually turned up and other acoustic sources added such that the source level would increase in steps not exceeding 6 dB per 5-minute period. If marine mammals are detected within the HRG survey exclusion zone prior to or during the ramp-up, activities will be delayed until the animal(s) has moved outside the monitoring zone and no marine mammals are detected for a period of 60 minutes.

Shutdown Procedures

The exclusion zone(s) around the noise-producing activities HRG survey equipment will be monitored, as previously described, by PSOs and at night by PAM operators for the presence of marine mammals before, during, and after any noise-producing activity. The vessel operator must comply immediately with any call for shutdown by the Lead PSO. Any disagreement should be discussed only after shutdown.

As per the BOEM Lease, if a non-delphinoid (*i.e.,* mysticetes and sperm whales) cetacean is detected at or within the established Level A exclusion zone, an immediate shutdown of the HRG survey equipment is required. Subsequent restart of the electromechanical survey equipment must use the ramp-up procedures described above and may only occur following clearance of the exclusion zone for 60 minutes. Subsequent power up of the survey equipment must use the ramp-up procedures described above and may occur after (1) the exclusion zone is clear of a delphinoid cetacean and/or pinniped for 60 minutes.

If the HRG sound source (including the sub-bottom profiler) shuts down for reasons other than encroachment into the exclusion zone by a marine mammal including but not limited to a mechanical or electronic failure, resulting in in the cessation of sound source for a period greater than 20 minutes, a restart for the HRG survey equipment (including the sub-bottom profiler) is required using the full ramp-up procedures and clearance of the exclusion zone of all cetaceans and pinnipeds for 60 minutes. If the pause is less than 20 minutes, the equipment may be restarted as soon as practicable at its operational level as long as visual surveys were continued diligently throughout the silent period and the exclusion zone remained clear of cetaceans and pinnipeds. If the visual surveys were not continued diligently during the pause of 20 minutes or less, a restart of the HRG survey equipment (including the sub-bottom profiler) is required using the full ramp-up procedures and clearance of the

exclusion zone for all cetaceans and pinnipeds for 60 minutes.

The proposed mitigation measures are designed to avoid the already low potential for injury (Level A harassment) in addition to some Level B harassment, and to minimize the potential for vessel strikes. There are no known marine mammal rookeries or mating grounds in the survey area that would otherwise potentially warrant increased mitigation measures for marine mammals or their habitat (or both). The proposed survey would occur in an area that has been identified as a biologically important area (BIA) for migration for North Atlantic right whales. However, given the small spatial extent of the survey area relative to the substantially larger spatial extent of the right whale migratory area, the survey is not expected to appreciably reduce migratory habitat nor to negatively impact the migration of North Atlantic right whales. In addition, the timing of importance for migration in this biologically important area BIA is March-April and November-December, and Bay State Wind's proposed activities are anticipated to occur outside of the timing of importance. Thus, mitigation to address the proposed survey's occurrence in North Atlantic right whale migratory habitat is not warranted. The proposed survey area would partially overlap spatially with a biologically important feeding area for fin whales. However, the fin whale feeding area is sufficiently large (2,933 km^2), and the acoustic footprint of the proposed survey is sufficiently small that the survey is not expected to appreciably reduce fin whale feeding habitat nor to negatively impact the feeding of fin whales, thus mitigation to address the proposed survey's occurrence in fin whale feeding habitat is not warranted. Further, we believe the proposed mitigation measures are practicable for the applicant to implement.

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 of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

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 ITAs 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.

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

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

Proposed Monitoring Measures

Bay State Wind submitted a marine mammal monitoring and reporting plan as part of the IHA application. The plan may be modified or supplemented based on comments or new information received from the public during the public comment period.

Visual Monitoring—Visual monitoring of the established Level B harassment zones will be performed by qualified and NMFS-approved PSOs (see discussion of PSO qualifications and requirements in *Marine Mammal Exclusion Zones* above).

The PSOs will begin observation of the monitoring zone during all HRG survey activities and all geotechnical operations where DP thrusters are employed. Observations of the monitoring zone will continue throughout the survey activity. PSOs will be responsible for visually monitoring and identifying marine mammals approaching or entering the established monitoring zone during survey activities.

Observations will take place from the highest available vantage point on the survey vessel. General 360-degree scanning will occur during the monitoring periods, and target scanning by the PSO will occur when alerted of a marine mammal presence.

Data on all PSO observations will be recorded based on standard PSO collection requirements. This will include dates and locations of construction operations; time of observation, location and weather; details of the sightings (*e.g.,* species, age classification [if known], numbers, behavior); and details of any observed ''taking'' (behavioral disturbances or injury/mortality). The data sheet will be provided to both NMFS and BOEM for review and approval prior to the start of survey activities. In addition, prior to initiation of survey work, all crew members will undergo environmental training, a component of which will focus on the procedures for sighting and protection of marine mammals. A briefing will also be conducted between the survey supervisors and crews, the PSOs, and the Applicant. The purpose of the briefing will be to establish responsibilities of each party, define the chains of command, discuss communication procedures, provide an overview of monitoring purposes, and review operational procedures.

Proposed Reporting Measures

The Applicant will provide the following reports as necessary during survey activities:

- The Applicant will contact NMFS and BOEM within 24 hours of the commencement of survey activities and again within 24 hours of the completion of the activity.
- As per the BOEM Lease: Any observed significant behavioral reactions (*e.g.,* animals departing the area) or injury or mortality to any marine mammals must be reported to NMFS and BOEM within 24 hours of observation. Dead or injured protected species are reported to the NMFS Greater Atlantic Regional Fisheries Office Stranding Hotline (800–900–3622) within 24 hours of sighting, regardless of whether the injury is caused by a vessel. In addition, if the injury of death was caused by a collision with a project related vessel,

the Applicant must ensure that NMFS and BOEM are notified of the strike within 24 hours. The Applicant must use the form included as Appendix A to Addendum C of the Lease to report the sighting or incident. If The Applicant is responsible for the injury or death, the vessel must assist with any salvage effort as requested by NMFS. Additional reporting requirements for injured or dead animals are described below (*Notification of Injured or Dead Marine Mammals*).

Notification of Injured or Dead Marine Mammals

In the unanticipated event that the specified HRG and geotechnical activities lead to an unauthorized injury of a marine mammal (Level A harassment) or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), Bay State Wind would immediately cease the specified activities and report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the NOAA Greater Atlantic Regional Fisheries Office (GARFO) Stranding Coordinator. The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the event. NMFS would work with Bay State Wind to minimize reoccurrence of such an event in the future. Bay State Wind would not resume activities until notified by NMFS.

In the event that Bay State Wind discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), Bay State Wind would immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources and the GARFO Stranding Coordinator. The report would include the same information identified in the paragraph above. Activities would be allowed to continue while NMFS reviews the circumstances of the incident. NMFS would work with the Applicant to determine if modifications in the activities are appropriate.

In the event that Bay State Wind discovers an injured or dead marine mammal and 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), Bay State Wind would report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS Greater Atlantic Regional Fisheries Office Regional Stranding Coordinator, within 24 hours of the discovery. Bay State Wind would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Bay State Wind can continue its operations in such a case.

Within 90 days after completion of the marine site characterization survey activities, a technical report will be provided to NMFS and BOEM that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of marine mammals that may have been taken during survey activities, and provides an interpretation of the results and effectiveness of all monitoring tasks. Any recommendations made by NMFS must be addressed in the final report prior to acceptance by NMFS.

In addition to the Applicant's reporting requirements outlined above, the Applicant will provide an assessment report of the effectiveness of the various mitigation techniques, *i.e.* visual observations during day and night, compared to the PAM detections/operations. This will be submitted as a draft to NMFS and BOEM 30 days after the completion of the HRG surveys and as a final version 60 days after completion of the surveys.

Negligible Impact Analysis and Determination

Negligible impact is 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, as the severity of harassment may vary greatly depending on the context and duration of the behavioral response, many of which would not be expected to have deleterious impacts on the fitness of any individuals. In determining whether the expected takes will have a negligible impact, in addition to considering estimates of the number of marine mammals that might be ''taken,'' NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and the status of the species.

As discussed in the ''Potential Effects of the Specified Activity on Marine Mammals and Their Habitat'' section, PTS, masking, non-auditory physical effects, and vessel strike are not expected to occur. However, a small number of PTS takes of harbor porpoise are analyzed here out of an abundance of caution even though the potential is low. There is also some potential for limited TTS. Animals in the area would likely incur no more than brief hearing impairment (*i.e.,* TTS) due to generally low SPLs—and in the case of the HRG survey equipment use, directional beam pattern, transient signals, and moving sound sources—and the fact that most marine mammals would more likely avoid a loud sound source rather than swim in such close proximity for an amount of time as to result in TTS or PTS. Further, once an area has been surveyed, it is not likely that it will be surveyed again, therefore reducing the likelihood of repeated impacts within the project area.

Potential impacts to marine mammal habitat were discussed previously in this document (see the ''Potential Effects of the Specified Activity on Marine Mammals and their Habitat'' section). Marine mammal habitat may be impacted by elevated sound levels and some sediment disturbance, but these impacts would be temporary and relatively short term. Feeding behavior is not likely to be significantly impacted, as marine mammals appear to be less likely to exhibit behavioral reactions or avoidance responses while engaged in feeding activities (Richardson *et al.,* 1995). Prey species are mobile, and are broadly distributed throughout the Lease Area; therefore,

marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, and the lack of important or unique marine mammal habitat, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations. Furthermore, there are no feeding areas, rookeries, or mating grounds known to be biologically important to marine mammals within the proposed project area. A small portion of a BIA for fin whale feeding is within the survey area and a BIA for North Atlantic right whale migration encompasses the Lease Area. However, there is no temporal overlap between the north Atlantic right whale BIA (effective March-April and November-December) and the proposed survey activities (April-June; October). The portion of the fin whale feeding BIA within the HRG survey area is a very small portion of the overall BIA, and HRG activities would ensonify such a small area that fin whale foraging is not anticipated to be substantially impacted. ESA-listed species for which takes are proposed are sperm whales and fin whales, and these effects are anticipated to be limited to lower level behavioral effects.

Examination of the minimum number alive population index calculated from the individual sightings database for the years 1990–2010 suggested a positive and slowly accelerating trend in North Atlantic right whale population size (Waring *et al.,* 2015); however, since June 7, 2017, an unusual mortality event has been declared for this species due to a high number of mortalities with human interactions (*i.e.,* fishery-related entanglements and vessel strikes) identified as the most likely cause. There are currently insufficient data to determine population trends for fin whale (Waring *et al.,* 2015). There is no designated critical habitat for any ESA-listed marine mammals within the Lease Area, and none of the stocks for non-listed species proposed to be taken are considered ''depleted'' or ''strategic'' by NMFS under the MMPA.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by giving animals the opportunity to move away from the sound source before HRG survey equipment reaches full energy and preventing animals from being exposed to sound levels reaching 180 dB during HRG survey activities. Additional vessel strike avoidance requirements will further mitigate potential impacts to marine mammals during vessel transit to and within the Study Area.

Bay State Wind did not request, and NMFS is not proposing, take of marine mammals by serious injury, or mortality. NMFS expects that most takes would primarily be in the form of short-term Level B behavioral harassment in the form of brief startling reaction and/or temporary vacating of the area, or decreased foraging (if such activity were occurring)—reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007). This is largely due to the short time scale of the proposed activities, the low source levels and intermittent nature of many of the technologies proposed to be used, as well as the required mitigation. However, Bay State Wind has requested a small number of Level A takes for harbor porpoises in an abundance of caution. NMFS is proposing to authorize Level A take of harbor porpoises due to the fact that their small size may make it difficult to observe all individuals in certain sea states or weather conditions, so some Level A take may occur even with implementation of the 75 m shut down zone.

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 or serious is anticipated or authorized;
- Take is anticipated to be primarily Level B behavioral harassment consisting of brief startling reactions and/or temporary avoidance of the survey area due to the intermittent and short term nature of the activities as well as the directionality of the sound sources;
- While the survey area is within areas noted as biologically important for north Atlantic right whale migration, the activities will take place outside of the timeframe of noted importance for migration, and would occur in such a comparatively small area such that any avoidance of the survey area due to activities would not affect migration. In addition, mitigation measures to shut down at 500 m to avoid potential for Level B behavioral harassment due to animals that may occur inside that isopleth (400 m) will avoid any take of the species. Similarly, due to the small footprint of the survey activities in relation to the size of a biologically important area for fin whales foraging, the survey activities would not affect foraging behavior of this species.
- For most species, the percentage of stocks affected are less than 3 percent of the stock. This represents the total number of exposures and does not consider that there are likely repeat exposures of the same individuals. In addition, these takes are anticipated to be mainly Level B behavioral takes in the form of short-term startle or avoidance reactions that would not affect the species or stock.

NMFS concludes that exposures to marine mammal species and stocks due to Bay State Wind's HRG survey activities would result in only short-term (temporary and short in duration) and relatively infrequent effects to individuals exposed, and not of the type or severity that would be expected to be additive for the very small portion of the stocks and species likely to be exposed. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success, are not expected.

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 Bay State Wind's proposed HRG survey activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The requested takes proposed to be authorized for the HRG represent 2.18 percent of the Gulf of Maine stock of humpback whale (West Indies Distinct Population Segment); 1.98 percent of the WNA stock of fin whale; 0.77 percent of the Canadian East Coast stock of minke whale; 0.22 percent of the North Atlantic stock of sperm whales; 8.66 percent of the Western North Atlantic stock of bottlenose dolphins; 2.85 percent of the WNA stock of short-beaked common dolphin, 1.02 percent of the WNA stock of Atlantic white-sided dolphin, 0.95 percent of the Gulf of Maine/Bay of Fundy stock of harbor porpoise, 2.18 percent of the WNA stock of harbor seal, and 0.56 percent of the North Atlantic stock of gray seal. These take estimates represent the percentage of each species or stock that could be taken and for most stocks are small numbers (less than 3 percent for most

stocks) relative to the affected species or stock sizes. Further, the proposed take numbers are the maximum numbers of animals that are expected to be harassed during the project; it is possible that some of these exposures may occur to the same individual, which would mean the percentage of stock taken would be very conservative as it would not take into account these multiple exposures of the same individual(s). Therefore, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

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

Endangered Species Act

Within the project area, fin, humpback, and North Atlantic right whale are listed as endangered under the ESA. Under section 7 of the ESA, BOEM consulted with NMFS on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. NOAA's GARFO issued a Biological Opinion concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of fin whale or North Atlantic right whale. NMFS is also consulting internally on the issuance of an IHA under section 101(a)(5)(D) of the MMPA for this activity and the existing Biological Opinion may be amended to include an incidental take exemption for these marine mammal species, as appropriate.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Bay State Wind for HRG survey activities during geophysical survey activities from April 2018 through March 2019, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided next.

This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

Orsted/US Wind Power/Bay State Wind (Bay State Wind) (One International Place, 100 Oliver Street, Suite 2610, Boston, MA 02110) is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107, to harass marine mammals incidental to high-resolution geophysical (HRG) and geotechnical survey investigations associated with marine site characterization activities off the coast of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0500) (the Lease Area).

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 marine site characterization survey activity, as specified in the IHA application, in the Atlantic Ocean.

3. General Conditions

(a) A copy of this IHA must be in the possession of Bay State Wind, the vessel operator and other relevant personnel, the lead protected species observer (PSO), and any other relevant designees of Bay State Wind operating under the authority of this IHA.

(b) The species authorized for taking are listed in Table 7. The taking, by harassment only, is limited to the species and numbers listed in Table 7. Any taking of species not listed in Table 7, or exceeding the authorized amounts listed in Table 7, is prohibited and may result in the modification, suspension, or revocation of this IHA.

(c) The taking by serious injury or death of any species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

(d) Bay State Wind shall ensure that the vessel operator and other relevant vessel personnel are briefed on all responsibilities, communication procedures, marine mammal monitoring protocols, operational procedures, and IHA requirements prior to the start of survey activity, and when relevant new personnel join the survey operations.

4. Mitigation Requirements—the holder of this Authorization is required to implement the following mitigation measures:

(a) Bay State Wind shall use at least four (4) NMFS-approved PSOs during HRG surveys. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements.

(b) Visual monitoring must begin no less than 30 minutes prior to initiation of survey equipment and must continue until 30 minutes after use of survey equipment ceases.

(c) Exclusion Zones and Watch Zone—PSOs shall establish and monitor marine mammal Exclusion Zones and Watch Zones. The Watch Zone shall represent the extent of the maximum Level B harassment zone (1,166 m) or, as far as possible if the extent of the Zone is not fully visible. The Exclusion Zones are as follows:

(i) a 75 m Exclusion Zone for harbor porpoises;

(ii) a 100 m Exclusion Zone for large whales including sperm whales and mysticetes (except North Atlantic right whales);

(iii) a 500 m Exclusion Zone for North Atlantic right whales;

(iv) a 400 m Level B harassment monitoring zone for all marine mammals.

(d) Shutdown requirements—If a marine mammal is observed within, entering, or approaching the relevant Exclusion Zones as described under 4(c) while geophysical survey equipment is operational, the geophysical survey equipment must be immediately shut down.

(i) Any PSO on duty has the authority to call for shutdown of survey equipment. When there is certainty regarding the need for mitigation action on the basis of visual detection, the relevant PSO(s) must call for such action immediately.

(ii) When a shutdown is called for by a PSO, the shutdown must occur and any dispute resolved only following shutdown.

(iii) Shutdown of HRG survey equipment is also required upon confirmed passive acoustic monitoring (PAM) detection of a North Atlantic right whale at night, except in instances when the PAM detection of a North Atlantic right whale can be localized and the whale is confirmed as being beyond the 500 m EZ for right whales. The PAM operator on duty has the authority to call for shutdown of survey equipment based on confirmed acoustic detection of a North Atlantic right whale at night even in the absence of visual confirmation. When shutdown occurs based on confirmed PAM detection of a North Atlantic right whale at night, survey equipment may be re-started no sooner than 30 minutes after the last confirmed acoustic detection.

(iv) Upon implementation of a shutdown, survey equipment may be reactivated when all marine mammals have been confirmed by visual observation to have exited the relevant Exclusion Zone or an additional time period has elapsed with no further sighting of the animal that triggered the

shutdown (15 minutes for small delphinoid cetaceans and pinnipeds and 30 minutes for all other species).

(v) If geophysical equipment shuts down for reasons other than mitigation (*i.e.,* mechanical or electronic failure) resulting in the cessation of the survey equipment for a period of less than 20 minutes, the equipment may be restarted as soon as practicable if visual surveys were continued diligently throughout the silent period and the relevant Exclusion Zones are confirmed by PSOs to have remained clear of marine mammals during the entire 20 minute period. If visual surveys were not continued diligently during the pause of 20 minutes or less, a 30 minute pre-clearance period shall precede the restart of the geophysical survey equipment as described in 4(e). If the period of shutdown for reasons other than mitigation is greater than 20 minutes, a pre-clearance period shall precede the restart of the geophysical survey equipment as described in 4(e).

(e) Pre-clearance observation—30 minutes of pre-clearance observation shall be conducted prior to initiation of geophysical survey equipment. Geophysical survey equipment shall not be initiated if marine mammals are observed within or approaching the relevant Exclusion Zones as described under 4(c) during the pre-clearance period. If a marine mammal is observed within or approaching the relevant Exclusion Zone during the pre-clearance period, geophysical survey equipment shall not be initiated until the animal(s) is confirmed by visual observation to have exited the relevant Exclusion Zone or until an additional time period has elapsed with no further sighting of the animal (15 minutes for small delphinoid cetaceans and pinnipeds and 30 minutes for all other species).

(f) Ramp-up—when technically feasible, survey equipment shall be ramped up at the start or re-start of survey activities. Ramp-up will begin with the power of the smallest acoustic equipment at its lowest practical power output appropriate for the survey. When technically feasible the power will then be gradually turned up and other acoustic sources added in a way such that the source level would increase gradually.

(g) Vessel Strike Avoidance—Vessel operator and crew must maintain a vigilant watch for all marine mammals and slow down or stop the vessel or alter course, as appropriate, to avoid striking any marine mammal, unless such action represents a human safety concern. Survey vessel crew members responsible for navigation duties shall receive site-specific training on marine mammal sighting/reporting and vessel strike avoidance measures. Vessel strike avoidance measures shall include the following, except under circumstances when complying with these requirements would put the safety of the vessel or crew at risk:

(i) The vessel operator and crew shall maintain vigilant watch for cetaceans and pinnipeds, and slow down or stop the vessel to avoid striking marine mammals;

(ii) The vessel operator will reduce vessel speed to 10 knots (18.5 km/hr) or less when any large whale, any mother/calf pairs, whale or dolphin pods, or larger assemblages of non-delphinoid cetaceans are observed near (within 100 m (330 ft)) an underway vessel;

(iii) The survey vessel will maintain a separation distance of 500 m (1640 ft) or greater from any sighted North Atlantic right whale;

(iv) If underway, the vessel must steer a course away from any sighted North Atlantic right whale at 10 knots (18.5 km/hr) or less until the 500 m (1640 ft) minimum separation distance has been established. If a North Atlantic right whale is sighted in a vessel's path, or within 500 m (330 ft) to an underway vessel, the underway vessel must reduce speed and shift the engine to neutral. Engines will not be engaged until the North Atlantic right whale has moved outside of the vessel's path and beyond 500 m. If stationary, the vessel must not engage engines until the North Atlantic right whale has moved beyond 500 m;

(v) The vessel will maintain a separation distance of 100 m (330 ft) or greater from any sighted non-delphinoid cetacean. If sighted, the vessel underway must reduce speed and shift the engine to neutral, and must not engage the engines until the non-delphinoid cetacean has moved outside of the vessel's path and beyond 100 m. If a survey vessel is stationary, the vessel will not engage engines until the non-delphinoid cetacean has moved out of the vessel's path and beyond 100 m;

(vi) The vessel will maintain a separation distance of 50 m (164 ft) or greater from any sighted delphinoid cetacean. Any vessel underway shall remain parallel to a sighted delphinoid cetacean's course whenever possible, and avoid excessive speed or abrupt changes in direction. Any vessel underway shall reduce vessel speed to 10 knots (18.5 km/hr) or less when pods (including mother/calf pairs) or large assemblages of delphinoid cetaceans are observed. Vessels may not adjust course and speed until the delphinoid cetaceans have moved beyond 50 m and/or the abeam of the underway vessel;

(vii) All vessels underway will not divert or alter course in order to approach any whale, delphinoid cetacean, or pinniped. Any vessel underway will avoid excessive speed or abrupt changes in direction to avoid injury to the sighted cetacean or pinniped; and

(viii) All vessels will maintain a separation distance of 50 m (164 ft) or greater from any sighted pinniped.

(ix) The vessel operator will comply with 10 knot (18.5 km/hr) or less speed restrictions in any Seasonal Management Area per NMFS guidance.

(x) If NMFS should establish a Dynamic Management Area (DMA) in the area of the survey, within 24 hours of the establishment of the DMA Bay State Wind shall work with NMFS to shut down and/or alter survey activities to avoid the DMA as appropriate.

5. Monitoring Requirements—The Holder of this Authorization is required to conduct marine mammal visual monitoring and PAM during geophysical survey activity. Monitoring shall be conducted in accordance with the following requirements:

(a) A minimum of four NMFS-approved PSOs and a minimum of two certified PAM operator(s), operating in shifts, shall be employed by Bay State Wind during geophysical surveys.

(b) Observations shall take place from the highest available vantage point on the survey vessel. General 360-degree scanning shall occur during the monitoring periods, and target scanning by PSOs shall occur when alerted of a marine mammal presence.

(c) For monitoring around the autonomous surface vessel (ASV), a dual thermal/HD camera shall be installed on the mother vessel facing forward and angled in a direction so as to provide a field of view ahead of the vessel and around the ASV. PSOs shall be able to monitor the real-time output of the camera on hand-held computer tablets. Images from the cameras shall be able to be captured and reviewed to assist in verifying species identification. A monitor shall also be installed in the bridge displaying the real-time images from the thermal/HD camera installed on the front of the ASV itself, providing a further forward view of the craft. In addition, night-vision goggles with thermal clip-ons and a hand-held spotlight shall be provided and used such that PSOs can focus observations in any direction around the mother vessel and/or the ASV.

(d) PSOs shall be equipped with binoculars and have the ability to estimate distances to marine mammals located in proximity to the vessel and/or Exclusion Zones using range finders.

Reticulated binoculars will also be available to PSOs for use as appropriate based on conditions and visibility to support the sighting and monitoring of marine species.

(e) PAM shall be used during nighttime geophysical survey operations. The PAM system shall consist of an array of hydrophones with both broadband (sampling mid-range frequencies of 2 kHz to 200 kHz) and at least one low-frequency hydrophone (sampling range frequencies of 75 Hz to 30 kHz). PAM operators shall communicate detections or vocalizations to the Lead PSO on duty who shall ensure the implementation of the appropriate mitigation measure.

(f) During night surveys, night-vision equipment and infrared technology (as described in 5 (c) above) shall be used in addition to PAM.

(g) PSOs and PAM operators shall work in shifts such that no one monitor will work more than 4 consecutive hours without a 2 hour break or longer than 12 hours during any 24-hour period. During daylight hours the PSOs shall rotate in shifts of 1 on and 3 off, and during nighttime operations PSOs shall work in pairs.

(h) PAM operators shall also be on call as necessary during daytime operations should visual observations become impaired.

(i) Position data shall be recorded using hand-held or vessel global positioning system (GPS) units for each sighting.

(j) A briefing shall be conducted between survey supervisors and crews, PSOs, and Bay State Wind to establish responsibilities of each party, define chains of command, discuss communication procedures, provide an overview of monitoring purposes, and review operational procedures.

(k) PSO qualifications shall include direct field experience on a marine mammal observation vessel and/or aerial surveys.

(l) Data on all PAM/PSO observations shall be recorded based on standard PSO collection requirements. PSOs must use standardized data forms, whether hard copy or electronic. The following information shall be reported:

(i) PSO names and affiliations.

(ii) Dates of departures and returns to port with port name.

(iii) Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort.

(iv) Vessel location (latitude/longitude) when survey effort begins and ends; vessel location at beginning and end of visual PSO duty shifts.

(v) Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change.

(vi) Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions change significantly), including wind speed and direction, Beaufort sea state, Beaufort wind force, swell height, weather conditions, cloud cover, sun glare, and overall visibility to the horizon.

(vii) Factors that may be contributing to impaired observations during each PSO shift change or as needed as environmental conditions change (*e.g.,* vessel traffic, equipment malfunctions).

(viii) Survey activity information, such as type of survey equipment in operation, acoustic source power output while in operation, and any other notes of significance (*i.e.,* pre-clearance survey, ramp-up, shutdown, end of operations, etc.).

(ix) If a marine mammal is sighted, the following information should be recorded:

(A) Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);

(B) PSO who sighted the animal;

(C) Time of sighting;

(D) Vessel location at time of sighting;

(E) Water depth;

(F) Direction of vessel's travel (compass direction);

(G) Direction of animal's travel relative to the vessel;

(H) Pace of the animal;

(I) Estimated distance to the animal and its heading relative to vessel at initial sighting;

(J) Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified); also note the composition of the group if there is a mix of species;

(K) Estimated number of animals (high/low/best);

(L) Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);

(M) Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);

(N) Detailed behavior observations (*e.g.,* number of blows, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);

(O) Animal's closest point of approach and/or closest distance from the center point of the acoustic source;

(P) Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, data acquisition, other); and

(Q) Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up, speed or course alteration, etc.) and time and location of the action.

6. Reporting—a technical report shall be provided to NMFS within 90 days after completion of survey activities that fully documents the methods and monitoring protocols, summarizes the data recorded during monitoring, estimates the number of marine mammals that may have been taken during survey activities, describes the effectiveness of the various mitigation techniques (*i.e.,* visual observations during day and night compared to PAM detections/operations), provides an interpretation of the results and effectiveness of all monitoring tasks, and includes an assessment of the effectiveness of night vision equipment used during nighttime surveys, including comparisons of relative effectiveness among the different types of night vision equipment used. Any recommendations made by NMFS shall be addressed in the final report prior to acceptance by NMFS.

(a) Reporting injured or dead marine mammals:

(i) In the event that the specified activity clearly causes the take of a marine mammal in a manner not authorized by this IHA, such as serious injury or mortality, Bay State Wind shall immediately cease the specified activities and immediately report the incident to the NMFS Office of Protected Resources ((301) 427–8400) and the NMFS Northeast Stranding Coordinator ((866) 755–6622). The report must include the following information:

(A) Time, date, and location (latitude/longitude) of the incident;

(B) Vessel's speed during and leading up to the incident;

(C) Description of the incident;

(D) Status of all sound source use in the 24 hours preceding the incident;

(E) Water depth;

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

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

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

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

(J) 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 Bay State Wind to determine what measures are necessary to minimize the likelihood of

further prohibited take and ensure MMPA compliance. Bay State Wind may not resume their activities until notified by NMFS.

(ii) In the event that Bay State Wind discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Bay State Wind shall immediately report the incident to the NMFS Office of Protected Resources ((301) 427–8400) and the NMFS Northeast Stranding Coordinator ((866) 755–6622). The report must include the same information identified in condition 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Bay State Wind to determine whether additional mitigation measures or modifications to the activities are appropriate.

(iii) In the event that Bay State Wind discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the specified activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Bay State Wind shall report the incident to the NMFS Office of Protected Resources ((301) 427–8400) and the NMFS Northeast Stranding Coordinator ((866) 755–6622), within 24 hours of the discovery. Bay State Wind shall provide photographs or video footage or other documentation of the 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.

Request for Public Comments

We request comment on our analyses, the draft authorization, and any other aspect of this Notice of Proposed IHA for the proposed marine site characterization surveys. 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 one-year renewal 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 renewal would allow 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 10, 2018.

Elaine T. Saiz,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2018–10333 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of Intent to Evaluate State Coastal Management Program.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments on the performance evaluation of the California Coastal Commission, part of the California Coastal Management Program.

DATES: *California Coastal Commission Evaluation:* The public meeting will be held on June 11, 2018, and written comments must be received on or before June 22, 2018.

For specific dates, times, and locations of the public meetings, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: You may submit comments on the program or reserve NOAA intends to evaluate by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Long Beach, California. For the specific location, see **SUPPLEMENTARY INFORMATION.**

Written Comments: Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or email comments *Carrie.Hall@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.* Copies of the previous evaluation findings and 2016–2020 Assessment and Strategy may be viewed and downloaded on the internet at *http://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter and most recent progress report may be obtained upon request by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved state and territorial coastal programs. The process includes one or more public meetings, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Specific information on the periodic evaluation of the state and territorial coastal program that is the subject of this notice is detailed below as follows:

California Coastal Commission Evaluation

You may participate or submit oral comments at the public meeting scheduled as follows:

Date: June 11, 2018.

Time: 7:00 p.m., local time.

Location: Ocean Theater Auditorium, Aquarium of the Pacific, 100 Aquarium Way, Long Beach, CA 90802.

Written public comments must be received on or before June 22, 2018.

Dated: May 1, 2018.

Keelin Kuipers,

Acting Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2018–10309 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG201

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings of the North Pacific Fishery Management Council and its advisory committees.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet in June, in Kodiak, AK.

DATES: The meetings will be held June 4 through June 11, 2018. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The Council meeting will be held at the Kodiak Harbor Convention Center, 236 Rezanof Drive, Kodiak, AK 99615. The SSC will meet at the Kodiak Best Western, 236 Rezanof Drive, Kodiak, AK 99615. The AP will meet at the Elks Lodge, 102 W Marine Way, Kodiak, AK 99615.

Council address: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: Council will begin its plenary session at 8 a.m. in the Pavilion Room, Kodiak Convention Center on Wednesday, June 6, continuing through Monday, June 11, 2018. The Scientific and Statistical Committee (SSC) will begin at 8 a.m. in the Harbor Room, Kodiak Best Western on Monday, June 4 and continue through Wednesday, June 6, 2018. The Council's Advisory Panel (AP) will begin at 8 a.m. at the Elks Lodge on Tuesday, June 5, and continue through Friday, June 8, 2018. The Ecosystem Committee will meet in the Stellar Room, Kodiak Convention Center on Tuesday, June 5, 2018, from 9 a.m. to 5 p.m. The Enforcement Committee will meet in the Katurwik Room, Kodiak Convention Center on Tuesday, June 5, 2018, from 1 p.m. to 4 p.m. The IFQ Outreach Meeting will be held in the Pavilion Room, Kodiak Convention Center on Tuesday, June 5, 2018, from 5 p.m. to 6:30 p.m.

Agenda

Monday, June 4, 2018 through Monday, June 11, 2018

Council Plenary Session: The agenda for the Council's plenary session will include the following issues. The Council may take appropriate action on any of the issues identified.

(1) Executive Director's Report (including CCC update, February 2018 Ecosystem Workshop report, *Turning the Tide* report)
(2) NMFS Management Report (including EFH consultation report, update on decksorting regulatory analysis, draft EM policy directive)
(3) NOAA General Counsel
(4) NOAA Enforcement Report
(5) ADF&G Report
(6) USCG Report
(7) USFWS Report
(8) Protected Species Report
(9) 2017 Observer Annual Report and OAC Report
(10) EM Workgroup Report
(11) ABC/OFL Specifications for Aleutian Islands Golden King Crab, and Crab Plan Team Report
(12) Fixed gear CV rockfish retention
(13) Halibut retention in BSAI pots
(14) BSAI Pacific cod trawl CV analysis
(15) GOA pollock, cod seasons/allocations
(16) GOA Tanner crab observer/effort data
(17) Self-guided halibut rental boats
(18) Social Science Planning Team—Report
(19) Community engagement draft committee scope and ideas for RFP
(20) Kuskokwim River model review for 3 river index
(21) BSAI Halibut ABM evaluation methodology
(22) BSAI Halibut O26 performance standard
(23) Research priorities for 2018
(24) Staff Tasking

The Advisory Panel will address most of the same agenda issues as the Council except B reports.

The SSC agenda will include the following issues:

(1) 2017 Observer Annual Report and OAC Report
(2) ABC/OFL Specifications for Aleutian Islands Golden King Crab, and Crab Plan Team Report
(3) Fixed gear CV rockfish retention
(4) Kuskokwim River model review for 3 river index
(5) Ecosystem Workshop report
(6) Social Science Planning Team—Report
(7) Community engagement draft committee scope and ideas for RFP
(8) Research priorities for 2018
(9) BSAI Halibut ABM evaluation methodology
(10) BSAI Halibut O26 performance standard

In addition to providing ongoing scientific advice for fishery management decisions, the SSC functions as the Councils primary peer review panel for scientific information as described by the Magnuson-Stevens Act section 302(g)(1)(e), and the National Standard 2 guidelines (78 FR 43066). The peer review process is also deemed to satisfy the requirements of the Information Quality Act, including the OMB Peer Review Bulletin guidelines.

The Ecosystem Committee agenda will include the following issues:

(1) Review Report from February 2018 Ecosystem Workshop
(2) Review Conservation Plan for the Northern Fur Seal
(3) Receive information on US Army Corps of Engineers projects
(4) Receive update on NOAA's bathymetric data projects

The Enforcement Committee agenda will include the following issues:

(1) Rockfish retention
(2) Halibut in pots
(3) Scheduling and other issues

The IFQ Outreach meeting agenda will include the following issues:

(1) 20-Year Program Review related to entry level and rural participation
(2) Update on Council requests for IFQ fishery discussion papers
(3) Listening session and open forum
(4) Stakeholder feedback on IFQ fishery and entry-level/rural opportunities

The Agenda is subject to change, and the latest version will be posted at *http://www.npfmc.org/*

Public Comment

Public comment letters will be accepted and should be submitted either electronically at: *comments.npfmc.org*

or through the mail: North Pacific Fishery Management Council, 605 W 4th Ave., Suite 306, Anchorage, AK 99501–2252. In-person oral public testimony will be accepted.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: May 9, 2018.

Rey Israel Marquez,

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

[FR Doc. 2018–10341 Filed 5–14–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed collection of information, Form EIA–871 *Commercial Buildings Energy Consumption Survey (CBECS)* as required under the Paperwork Reduction Act of 1995. EIA requests a three-year extension, with changes, of CBECS, OMB Control Number 1905–0145. This form collects data on energy consumption and expenditures and energy-related building characteristics for the commercial sector of the national economy.

DATES: EIA must receive all comments on this proposed information collection no later than July 16, 2018. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: Send your comments to *Joelle Michaels,* CBECS Survey Manager, EI–22, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585. Submission by email to *joelle.michaels@eia.gov* is recommended.

FOR FURTHER INFORMATION CONTACT: If you need additional information or copies of the information collection instrument, send your request to *Joelle Michaels* by phone at (202) 586–8952, or by email to *Joelle.Michaels@eia.gov.* Access to the proposed form, instructions, and internet data collection screens can be found at: *https://www.eia.gov/survey/#eia-871.*

SUPPLEMENTARY INFORMATION: This information collection request contains:

(1) *OMB No.* 1905–0145;

(2) *Information Collection Request Title:* Commercial Buildings Energy Consumption Survey;

(3) *Type of Request:* Renewal with changes;

(4) *Purpose:* CBECS is a national multi-stage probability sample survey of commercial buildings and the energy suppliers to these buildings. The sampling unit is the building. The overall objective of CBECS is to collect basic statistical information on energy consumption and expenditures in commercial buildings and the energy-related characteristics of those buildings. Aggregate energy consumption data relating to building characteristics are made available to the public in electronic tables and reports at *www.eia.gov/consumption/commercial.*

CBECS has been conducted periodically since 1979; the most recent data collection cycles were in 2007 and 2012. The 2018 data collection cycle will be the 11th iteration for this survey.

The CBECS is integral to EIA's mandate to collect and publish energy end-use consumption data. The collected data constitute the only national-level data available on energy consumption in commercial buildings that are both comprehensive in nature and statistically rigorous. As such, CBECS data constitute the only data series that allows policy makers and program implementers in both the public and private sectors to keep track of national trends in energy consumption for the commercial sector and commercial buildings. CBECS is comprised of the following schedules:

- EIA–871A *Building Questionnaire*
- EIA–871C *Natural Gas Usage*
- EIA–871D *District Heating Usage*
- EIA–871E *Electricity Usage*
- EIA–871F *Fuel Oil Usage*
- EIA–871I *Mall Building Questionnaire*
- EIA–871J *Mall Establishment Questionnaire*

(4a) *Proposed Changes to Information Collection:* The current design, procedures, and schedules for CBECS reflect a number of changes from the 2012 CBECS collection cycle. The proposed changes are listed next. References to added questions apply to the 2018 CBECS questionnaire numbers and deleted question numbers refer to the 2012 CBECS.

- The following associated schedules are deleted and will not be used: EIA–871B *Authorization Form,* EIA–871G *Worksheet 1: Characteristics, Energy Sources, and Equipment,* and EIA–871H *Worksheet 2: Energy Amounts Used and Dollars Spent.*
- *EIA–871B Authorization Form* is deleted because EIA can collect this information from energy suppliers using its mandatory collection authority. Respondents no longer need to complete this form and sign it because their energy supplier name will be collected during on the questionnaire form and they will be informed that EIA will contact the supplier for further information.
- *EIA–871G Worksheet 1* is deleted. This worksheet was provided as a mechanism for respondents to collect information about characteristics of the building prior to the interview. EIA has determined that this worksheet was not as useful as anticipated and it is not needed.
- *EIA–871H Worksheet 2* is deleted. This worksheet was used by respondents to report monthly consumption and expenditures for electricity and natural gas. Respondents could use the worksheet to collect annual data for fuel oil/diesel/kerosene, district steam, district hot water, and total water as preparation for the in-person interview. The worksheet is no longer necessary because monthly energy data will be collected from energy suppliers instead.
- Online data collection is added as a mode of collection. Respondents will have the option to complete CBECS using a self-administered online questionnaire. Interviewer debriefing following the 2012 CBECS indicated that some respondents preferred a web mode for responding to CBECS. EIA estimates that 40% of respondents will choose web as their response mode.
- *Delete questions A7–A11 from EIA–871A:* These questions asked respondents if they included parking and common areas in the reported square footage. They were meant to improve the accuracy of the data reported for square footage but respondents had difficulty providing this information and EIA determined that other square footage editing procedures added more value than these questions.
- *Delete questions A20 and A21 from EIA–871A:* Whether the glass is equal on all sides of the building and if not, whether the sides receiving direct sunlight have more or less glass than the

other sides, have been deleted for concerns about data quality.

• *Revise question A11 in EIA–871A, question A11 in EIA–871I:* The question about whether there is a ''cool roof'' was expanded to ask which, if any, properties the roof has that allow it to reflect more sunlight or absorb less heat than a standard roof, such as a white or highly reflective coating or paint or a vegetative roof. This change was made following discussions with stakeholders.

• *Delete question B12 from EIA–871A:* Type of retail store question collected detail about whether the retail store was apparel specialty, drug store, home center, etc. There were not enough responses across the categories to publish the data, so it did not add any value.

• *Delete questions B31–B33 from EIA–871A:* If any office space, presence and location of open plan office space have been deleted for concerns about data quality.

• *Add questions B42 and B43 to EIA–871A, questions B2 and B3 to EIA–871I:* For buildings that are on a multi-building campus/complex, these two questions were added to collect the number of buildings on the campus/complex and the name of the campus/complex. They will help EIA with data editing.

• *Add question C9 to EIA–871A:* For buildings that report more than one business or organization in the building, this question was added to collect the number tenants that lease space in the building. This is part of the effort to scope the ability to collect data for a future tenant data collection.

• *Delete questions C22 and C23 from EIA–871A:* Annual number of events for public assembly buildings, annual meals served for restaurants. These questions had high item nonresponse rates as many of the respondents did not have that information available.

• *Delete questions C24, C25, C32, and C33 from EIA–871A and C6, C7, C14, and C15 from EIA–871J:* Seasonal use and ''high season'' questions. These questions were meant to make answering questions about operation hours easier for respondents at buildings that were used more in certain months (*e.g.,* summertime), but data review indicated that the questions added confusion and were not helpful.

• *Delete question C36 from EIA–871A:* The question about whether fire station personnel are career or volunteer has been deleted. This was added to the 2012 CBECS in response to a stakeholder request, but too few fire stations and police stations appeared at random in the sample, so the two building activities were combined in the published data tables and the public microdata.

• *Add question D17 to EIA–871A, question D17 to EIA–871I, question D17 to EIA–871J:* If solar as an energy source is reported to be used in the building, this follow- up question is asked to determine whether the building has solar panels for generating electricity and/or solar thermal energy. As a growing number of commercial buildings are using solar, it has become more important to collect information on the specific technology used.

• *Revise EIA–871A questions D25–D90, EIA–871I questions D23–D79, EIA–871J questions D21–D74:* The questions on space heating source(s) and the equipment section of the questionnaire were revised. Instead of asking what energy source(s) were used for heating and then asking what types of equipment, EIA will link the equipment type to each reported energy source that is used for heating. Equipment type response choices will be specific to the selected energy source(s), which should make it easier for respondents to report equipment type and fuel use in their buildings. This information is useful for data users to know which source powers each equipment.

• *Revise EIA–871A questions D91–D117, EIA–871I questions D80–D104, EIA–871J questions D75–D95:* The cooling source(s) and equipment section of the questionnaire has also been revised. Similar to space heating, EIA will link the equipment type to each energy source reported to be used for cooling.

• *Delete question D25 from EIA–871A, D29 from question EIA–871I, and question D27 from EIA–871J:* The type of furnace (packaged central, split system, duct furnace, individual) has been deleted for concerns about data quality.

• *Delete questions D36, D37, and D52 from EIA–871A; D40, D41, and D56 from EIA–871I; and D38, D39, and D50 from EIA–871J:* The type of packaged heating/cooling (unitary, custom built-up) and packaged heating components (furnace, heat pump, heating coil, powered induction unit, duct reheat) questions have been deleted for concerns about data quality.

• *Delete questions D38 and D57 from EIA–871A; D42 and D61 from EIA–871I; and D40 and D55 from EIA–871J:* The heat pump heating/cooling system type (packaged, split, individual, ductless mini-split, variable refrigerant flow) questions have been deleted for concerns about data quality.

• *Delete question D41 from EIA–871A; D45 from EIA–871I; and D43 from EIA–871J:* The type of individual heater (infrared radiant, baseboard, portable heater, wall heater, individual furnace, unit heater, heating element in PTAC (Packaged Thermal Air Conditioner) questions has been deleted for concerns about data quality.

• *Delete question D54 from EIA–871A; D58 from EIA–871I; and D52 from EIA–871J:* Whether the absorption chiller has the capability to act as a heater chiller has been deleted for concerns about data quality.

• *Delete questions D43, D44, D61, D62, and D62a from EIA–871A; D47, D48, D65, D66, and D66a from EIA–871I; and D45, D46, D59, D60, and D60a from EIA–871J:* Heating/cooling ventilation equipment (CAV (Constant Air Volume), VAV (Variable Air Volume), underfloor distribution, dedicated outside air system, demand-controlled ventilation), however some of these response options have been incorporated into the new question D125 about airflow control, described below.

• *Add follow-up question D119 to EIA–871A, question D107 to EIA–871I, question D98 to EIA–871J:* For buildings that report using building automation systems (also referred to as BAS), this question will collect information on which systems (heating, cooling, and/or lighting) the BAS controls.

• *Add question D120 to EIA–871A, question D108 to EIA–871I, D99 to EIA–871J:* For buildings without BAS systems, a new question asks whether ''smart'' or internet-connected thermostats are used. These types of thermostats are new since the last CBECS was conducted, and may be more common in small commercial buildings.

• *Add question D125 to EIA–871A, question D113 to EIA–871I, question D104 to EIA–871J:* This question will collect information about airflow control in the building: whether the building has a variable air volume (VAV) system, a dedicated outdoor air system (DOAS), or demand controlled ventilation (DCV). This modified version of the deleted ventilation question came from comments and discussion with stakeholders.

• *Add question D141 to EIA–871A, question D128 to EIA–871I, question D119 to EIA–871J:* A question about energy sources by generation technology (if not solar panels or wind turbines) will link the energy source used with these generation technologies reported to be used: reciprocating engine generators, fuel cells, large turbines, or microturbines.

• *Delete questions D94, D95, and D96 from EIA–871A and D85, D86, and D87*

from EIA–871J: How electricity and natural gas are purchased (local utility, independent power producer, non-local utility, broker).

• *Add question D144 to EIA–871A, question D131 to EIA–871I:* Ask all buildings that use electricity whether there are there any electric vehicle charging stations associated with the building. Stakeholders have expressed an interest in this information and this end use is expected to grow.

• *Add question D145 to EIA–871A, question D122 to EIA–871J:* For dry cleaner/laundromats that use natural gas, ask whether there are clothes dryers that run on natural gas. This will improve end use estimation in these types of buildings.

• *Delete question D103 from EIA–871A, question D91 from EIA–871I, question D88 from EIA–871J:* The question asking whether the building has advanced metering infrastructure (AMI) was deleted for data quality concerns.

• *Delete questions E11, E12, and E13 from EIA–871A:* The question collecting whether or not there was space use in fire stations for non-fire station activities or for living quarters has been deleted.

• *Delete questions E49 and E50 from EIA–871A and E32 and E33 from EIA–871J:* Questions about flat screen monitors (both their presence and prevalence) have been removed since they are now the leading type of monitor used with desktop computers.

• *Delete question E60 from EIA–871A:* The square footage of trading floors will no longer be collected because it was not publicly reportable due to confidentiality concerns.

• *Add question E73 to EIA–871A:* This question is a follow-up to one that asks whether there is parking area associated with the building that is lighted through fixtures powered through the building's electrical service. This new question asks whether that parking area is part of building, such as an indoor parking level, or separate, such as an outdoor parking lot or garage. This will help data users to understand whether indoor parking is included as part of the building figures.

• *Revise EIA–871A questions E41–E61, EIA–871J questions E27–E47:* The series of questions on computing and office equipment have been revised following review of the 2012 data and discussions with stakeholders. A *select all that apply* question about computing equipment replaces individual questions about whether there are computers, laptops, and servers. An option for tablets has been added to the list of computing types. If selected, a new question will collect the number of tablets that are charged in the building. Respondents will be given the option to provide number of server *racks* if that figure is more readily available to them than the number of servers. When a respondent indicates that a data center is present in the building, a new question will ask about characteristics of the data center (such as a raised floor, separate cooling system and uninterruptible power supply) in order to help identify false positives and improve data quality. On the office equipment question, instead of asking about separate printers, copiers, and FAX machines, EIA will differentiate between large stand-alone office devices and smaller desktop devices, and collect the numbers of each type.

• *Add questions F2, F11, G3, and G10 to EIA–871A, questions F2, F12, G4, and G11 to EIA–871J:* These questions ask respondents whether they prefer to report electricity and/or natural gas consumption data on an annual or a monthly basis, and if they choose monthly then they are provided a grid to provide the monthly data. EIA expects most respondents will choose to report the single annual figure, but is allowing both for flexibility.

• *Add questions F4, F6, and F7 to EIA–871A, questions F5, F7, and F8 to EIA–871J:* For buildings that reported having on-site electricity generation, these questions are used to determine whether they can report the purchased and the generated electricity separately, and if so, to collect the purchased amount of electricity separately. Stakeholders have expressed interest in this information.

• *Add questions K2–K11 to EIA–871A:* These questions will be used to scope the ability to collect data for a future tenant data collection, as set forth by the *Energy Efficiency Improvement Act of 2015,* which requires EIA to collect data to support a future Environmental Protection Agency program to promote energy efficiency in separate tenant spaces, similar to the current ENERGY STAR program. These questions ask about electricity and natural gas billing arrangements and metering, which electricity uses are metered, and who has access to the metered electricity and natural data.

• *Delete questions K1–K20 from EIA–871A and K1–K14 from EIA–871J:* Water usage and other water-related questions that were included in the 2007 and 2012 CBECS will be removed. EIA found the response rates for these data items were very low and much of the data received was of low quality. Additionally, EIA has no mandate to pursue usage data from water suppliers as well as insufficient funding to address data deficiencies.

• *Delete questions L14, L15, and L16 from EIA–871A and L2, L3, and L4 from EIA–871I:* Questions about whether the building has any green certification, such as Energy Star or LEED, have been deleted. A thorough analysis of the performance of this question was conducted by comparing 2012 CBECS responses to databases of Energy Star and LEED certified buildings. This analysis indicated significant data quality issues with the CBECS reports for this question. Furthermore, due to confidentiality concerns and low sample sizes, the green building certification data from the 2012 CBECS could not be published.

• *Deletion of many questionnaire edits (in EIA–871A, EIA–871I, and EIA–871J)* will reduce the number of times an interview is interrupted to question or confirm a data item.

• The *Additional Questions* sections of EIA–871C–F are deleted. These sections contained from two to seven questions depending on the form:

• Questions 1 through 5 on the second page of EIA–871C *Natural Gas Usage Form* questions are deleted: (1) What charges were excluded from the total costs, (2) whether the responses included all active accounts during the reporting period, (3) whether the reported information included deliveries or sales to any buildings or units other than the building, (4) the account classification (commercial, residential, industrial), and (5) whether the building was eligible to participate in a ''customer choice'' program.

• *Questions 1 through 6 on the second page of EIA–871D District Energy Usage Form questions are deleted:* (1) Whether the building is billed for the district steam or hot water piped into it, (2) whether the building itself is a heating plant, (3) whether the reported information included deliveries or sales to any buildings or units other than the building, (4) if yes to previous, the percent of reported consumption consumed by the building, (5) the square footage of the building, and (6) the square footage of all the buildings on the district loop.

• *Questions 1 through 7 on the second and third pages of EIA–871E Electricity Usage Form questions are deleted:* (1) What charges were excluded from the total costs, (2) whether the responses included all active accounts during the reporting period, (3) whether the reported information included deliveries or sales to any buildings or units other than the building, (4) the account classification (commercial, residential, industrial), (5) whether the

building has an advanced metering infrastructure (AMI or smart metering), (6) whether the building was eligible to participate in a ''customer choice'' program, and (7) whether the building participated in any dynamic pricing programs.

• *Questions 1 and 2 on the second page of EIA–871F Heating Oil Form questions are being deleted:* (1) Whether the responses included all accounts during the reporting period and (2) whether the reported information included deliveries or sales to any buildings or units other than the building.

• EIA will not ask the building respondents to provide monthly energy data, as these records are more easily accessed through energy suppliers. The Energy Suppliers Survey (Forms EIA–871C–F, as applicable to each building depending on which energy source or sources are used in the building) will be used for almost all buildings, instead of the previous methodology where only those buildings where the building respondent was not able to provide valid data were included in the supplier data collection. The building and establishment respondents reporting on Forms EIA–871A and EIA–871J will still be asked to provide annual energy data because EIA has found that there are situations where those respondents are better suited to provide data that corresponds correctly to the sampled CBECS structure. This reporting structure should provide the highest quality data while allocating the burden appropriately across survey respondents.

(5) *Annual Estimated Number of Respondents:* 2,380;

(6) *Annual Estimated Number of Total Responses:* 2,380;

(7) *Annual Estimated Number of Burden Hours:* 2,611;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* The cost of the burden hours is estimated to be $197,627 (2,611 burden hours times $75.69 per hour). EIA estimates that respondents will have no additional costs associated with the surveys other than burden hours.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified as 15 U.S.C. 772(b) and the DOE Organization Act of 1977, Pub. L. 95–91, codified at 42 U.S.C. 7101 *et seq.*

Issued in Washington, DC, on May 9th, 2018.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2018–10328 Filed 5–14–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP18–797–000.
Applicants: ANR Storage Company.
Description: Operational Purchases and Sales Report of ANR Storage Company.
Filed Date: 4/30/18.
Accession Number: 20180430–5528.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–798–000.
Applicants: Bison Pipeline LLC.
Description: Operational Purchases and Sales Report of Bison Pipeline LLC.
Filed Date: 4/30/18.
Accession Number: 20180430–5529.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–799–000.
Applicants: Blue Lake Gas Storage Company.
Description: Operational Purchases and Sales Report of Blue Lake Gas Storage Company.
Filed Date: 4/30/18.
Accession Number: 20180430–5530.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–800–000.
Applicants: Great Lakes Gas Transmission Company.
Description: Operational Purchases and Sales Report of Great Lakes Gas Transmission Limited Partnership.
Filed Date: 4/30/18.
Accession Number: 20180430–5531.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–801–000.
Applicants: Northern Border Pipeline Company.
Description: Operational Purchases and Sales Report of Northern Border Pipeline Company.
Filed Date: 4/30/18.
Accession Number: 20180430–5532.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–802–000.
Applicants: ANR Pipeline Company.
Description: Operational Purchases and Sales Report of ANR Pipeline Company.
Filed Date: 5/1/18.
Accession Number: 20180501–5440.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–803–000.
Applicants: Florida Southeast Connection, LLC.
Description: Annual System Balancing Adjustment of Florida Southeast Connection, LLC.
Filed Date: 5/1/18.
Accession Number: 20180501–5443.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–804–000.
Applicants: ANR Pipeline Company.
Description: Annual Cashout Surcharge Report of ANR Storage Company.
Filed Date: 4/30/18.
Accession Number: 20180430–5573.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–808–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate for ConEd Releases effective 5/8/2018 to be effective 5/8/2018.
Filed Date: 5/8/18.
Accession Number: 20180508–5127.
Comments Due: 5 p.m. ET 5/21/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified 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 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10290 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2485–000]

FirstLight Hydro Generating Company; Notice of Authorization for Continued Project Operation

On April 29, 2016, FirstLight Hydro Generating Company, licensee for the Northfield Mountain Pumped Storage Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Northfield Mountain Pumped Storage Project is located on the Connecticut River in Franklin County, Massachusetts; Windham County, Vermont; and Cheshire County, New Hampshire.

The license for Project No. 2485 was issued for a period ending April 30, 2018. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 2485 is issued to the licensee for a period effective May 1, 2018 through April 30, 2019 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2019, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, FirstLight Hydro Generating Company, is authorized to continue operation of the Northfield Mountain Pumped Storage Project, until such time as the Commission acts on its application for a subsequent license.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10296 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1889–000]

FirstLight Hydro Generating Company; Notice of Authorization for Continued Project Operation

On April 29, 2016, FirstLight Hydro Generating Company, licensee for the Turners Falls Hydroelectric Project, filed an Application for a New License pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Turners Falls Hydroelectric Project is located on the Connecticut River in Franklin County, Massachusetts; Windham County, Vermont; and Cheshire County, New Hampshire.

The license for Project No.1889 was issued for a period ending April 30, 2018. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 1889 is issued to the licensee for a period effective May 1, 2018 through April 30, 2019 or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before April 30, 2019, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that the licensee, FirstLight Hydro Generating Company, is authorized to continue operation of the Turners Falls Hydroelectric Project, until such time as the Commission acts on its application for a subsequent license.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10295 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–332–000]

El Paso Natural Gas Company, L.L.C.; Notice of Application

Take notice that on April 26, 2018, El Paso Natural Gas Company, L.L.C. (EPNG), PO Box 1087, Colorado Springs, Colorado, 80944, filed in Docket No. CP18–332–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations for authorization to construct, own, and operate the South Mainline Expansion Project comprising: (i) About 17 miles of 30-inch-diameter loop line of EPNG's existing Line Nos. 1100 and 1103 located in Hudspeth and El Paso Counties, Texas; (ii) a new 13,220 horsepower (hp), turbine-driven Red Mountain Compressor Station located in Luna County, New Mexico; and (iii) a new 13,220 hp turbine-driven Dragoon Compressor Station located in Cochise County, Arizona. EPNG states that the proposed facilities will result in an increase of 321,000 dekatherms per day of contracted capacity and estimates the cost of the South Mainline

Expansion Project to be $127,907,996, 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 regarding this application should be directed to Francisco Tarin, Director, Regulatory, El Paso Natural Gas Pipeline L.L.C.; PO Box 1087, Colorado Springs, Colorado, 80944 at (719) 667–7517 or by fax at (719) 520–4697; or David Dewey, Assistant General Counsel, El Paso Natural Gas Pipeline, L.L.C.; PO Box 1087, Colorado Springs, Colorado, 80944 at (719) 520–4227 or by fax at (719) 520–4898.

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 5 copies of the protest or intervention to the Federal Energy regulatory Commission, 888 First Street NE, Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on May 30, 2018.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10291 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–1548–000]

Seguro Energy Partners, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Seguro Energy Partners, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 29, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC

Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10292 Filed 5–14–18; 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: EC18–80–000.

Applicants: Bayonne Plant Holding, L.L.C.

Description: Supplement to April 3, 2018 Application of Bayonne Plant Holding, L.L.C. for Approval Under Section 203 of the Federal Power Act and Request for Expedited Action.

Filed Date: 5/8/18.

Accession Number: 20180508–5176.

Comments Due: 5 p.m. ET 5/18/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–1293–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Tariff Amendment: 2018–05–08_SA 3106 Dodge County Wind-SMMPA Substitute GIA (J441) to be effective 3/21/2018.

Filed Date: 5/8/18.

Accession Number: 20180508–5128.

Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1549–000.

Applicants: Manifold Energy Inc.

Description: Baseline eTariff Filing: Application_C008940 to be effective 6/11/2018.

Filed Date: 5/8/18.

Accession Number: 20180508–5171.

Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1550–000.

Applicants: Puget Sound Energy, Inc.

Description: Compliance filing: Order 842 Compliance Filing to be effective 5/10/2018.

Filed Date: 5/9/18.

Accession Number: 20180509–5000.

Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1551–000.

Applicants: Duke Energy Florida, LLC.

Description: Notice of Termination of Standard Large Generator Interconnection Agreement (No. TF–183) of Duke Energy Florida, LLC.

Filed Date: 5/7/18.

Accession Number: 20180507–5235.

Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1552–000.

Applicants: MidAmerican Energy Company.

Description: Notice of Termination of Interchange Agreement between MidAmerican Energy Company.

Filed Date: 5/8/18.

Accession Number: 20180508–5173.

Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1553–000.

Applicants: Southwest Power Pool, Inc.

Description: Notice of Cancellation of Amendatory Agreement No. 4 to the Municipal Participation Agreement of Southwest Power Pool, Inc.

Filed Date: 5/8/18.

Accession Number: 20180508–5177.

Comments Due: 5 p.m. ET 5/29/18.

Docket Numbers: ER18–1554–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5067; Queue No. AA2–133 to be effective 4/11/2018.

Filed Date: 5/9/18.

Accession Number: 20180509–5051.

Comments Due: 5 p.m. ET 5/30/18.

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 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10288 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–23–000]

Targa Crude Pipeline LLC; Notice of Request for Temporary Waiver

Take notice that on May 4, 2018, pursuant to Rule 204 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.204, Targa Crude Pipeline LLC filed a petition seeking waiver of the Interstate Commerce Acts sections 6 and 20 and the Commission's implementing regulations at 18 CFR parts 341 and 357 with respect to certain crude petroleum gathering and pipeline facilities (the Waiver Facilities) being constructed and leased in Loving County, Texas, all as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on May 23, 2018.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10294 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: May 17, 2018, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda:
* Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502–8400.

For a recorded message listing items struck from or added to the meeting, call (202) 502–8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at *http://ferc.capitolconnection.org/* sing the eLibrary link, or may be examined in the Commission's Public Reference Room.

1043rd—Meeting, Regular Meeting, May 17, 2018, 10:00 a.m.

Item No.	Docket No.	Company
	ADMINISTRATIVE	
A–1	AD18–1–000	Agency Administrative Matters.
A–2	AD18–2–000	Customer Matters, Reliability, Security and Market Operations.
A–3	AD06–3–000	2018 Summer Market and Reliability Assessment.
	ELECTRIC	
E–1	RM18–8–000	Geomagnetic Disturbance Reliability Standard.
E–2	RM16–15–001	Regulations Implementing FAST Act Section 61003—Critical Electric Infrastructure Security and Amending Critical Energy Infrastructure Information.
E–3	ER16–204–001	Southwest Power Pool, Inc.
E–4	ER17–1575–002	Southwest Power Pool, Inc.
E–5	EL16–110–002, EL17–69–001 (not consolidated).	Southwest Power Pool, Inc., Buffalo Dunes Wind Project, LLC, Enel Green Power North America, Inc., Alabama Power Company, and Southern Company Services, Inc. v. Southwest Power Pool, Inc.
E–6	EL17–59–001	Joint California Complainants v. Pacific Gas and Electric Company.
E–7	EL17–95–000	California Public Utilities Commission, Transmission Agency of Northern California, Sacramento Municipal Utility District, M–S–R Public Power Agency, City of Santa Clara, California, State Water Contractors, Modesto Irrigation District, and Northern California Power Agency v. Pacific Gas and Electric Company.
	ER17–2154–000 (consolidated)	Pacific Gas and Electric Company.
E–8	EL18–58–000	Oklahoma Municipal Power Authority v. Oklahoma Gas and Electric Company.
E–9	EL17–70–000, QF17–935–001, QF17–936–001	Zeeland Farm Services, Inc.
E–10	EL15–3–002	City and County of San Francisco v. Pacific Gas and Electric Company.
	ER15–702–002, ER15–703–002, ER15–704–005, ER15–705–002, ER15–735–002 (consolidated).	Pacific Gas and Electric Company.
E–11	EL01–88–015	Louisiana Public Service Commission v. Entergy Services, Inc.
E–12	EL01–88–017	Louisiana Public Service Commission v. Entergy Services, Inc.
	MISCELLANEOUS	
M–1	OMITTED.	
M–2	RM18–7–000	Withdrawal of Pleadings.
	GAS	
G–1	RP16–1299–003, RP17–977–000 (consolidated).	Kinetica Energy Express, LLC.
G–2	OR18–9–000	White Cliffs Pipeline, L.L.C.
G–3	OMITTED.	
G–4	OR15–6–000	Seaway Crude Pipeline Company LLC.
G–5	RP17–811–001	Peregrine Oil & Gas II, LLC v. Texas Eastern Transmission, LP.
	HYDRO	
H–1	RM18–14–000	Elimination of Form 80 and Revision of Regulations on Recreational Opportunities and Development at Licensed Hydropower Projects.
	CERTIFICATES	
C–1	CP17–476–000	Gulf South Pipeline Company, LP.

Item No.	Docket No.	Company
C–2	CP18–48–000	Tennessee Gas Pipeline Company, L.L.C., Kinder Morgan Border Pipeline LLC, Kinder Morgan Tejas Pipeline LLC.

Issued: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

A free webcast of this event is available through *http://ferc.capitolconnection.org/.* Anyone with internet access who desires to view this event can do so by navigating to *www.ferc.gov's* Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit *http://ferc.capitolconnection.org/* or contact Danelle Springer or David Reininger at 703–993–3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2018–10396 Filed 5–11–18; 11:15 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–1549–000]

Manifold Energy Inc.; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Manifold Energy Inc.'s application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 29, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10293 Filed 5–14–18; 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 electric rate filings:

Docket Numbers: ER18–1555–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2018–05–09_SA 1503 NSP-Mankato 4th Rev. GIA (G261/J299) to be effective 4/25/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5075.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1556–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: GIA and DSA California State University Channel Islands Site Authority CSUCI to be effective 4/12/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5084.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1557–000.
Applicants: Tampa Electric Company.
Description: Compliance filing: OATT Order No. 842 Compliance Filing to be effective 5/15/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5126.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1558–000.
Applicants: Deseret Generation & Transmission Co-operative, Inc.
Description: Compliance filing: OATT Order No. 842 Compliance to be effective 5/15/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5148.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1559–000.
Applicants: Alabama Power Company.
Description: Compliance filing: Amendment of Southern's Tariff Vol. 4 in Compliance with Docket ER10–2881, et al to be effective 5/4/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5150.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1561–000.
Applicants: CSOLAR IV South, LLC.
Description: § 205(d) Rate Filing: Amendments to Co-Tenancy and Shared Use Agreement to be effective 5/10/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5201.
Comments Due: 5 p.m. ET 5/30/18.

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 9, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10289 Filed 5–14–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2013–0566; FRL–9977–81–OAR]

Release of Final Documents Related to the Review of the Primary National Ambient Air Quality Standards for Sulfur Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of two final documents titled, *Risk and Exposure Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides* (REA) and *Policy Assessment for the Review of the Primary National Ambient Air Quality Standard for Sulfur Oxides* (PA). The indicator for the current standard is sulfur dioxide (SO_2). The REA describes the quantitative analyses of SO_2 exposures and health risks in this NAAQS review. Building on the *Integrated Science Assessment for Sulfur Oxides—Health Criteria* (ISA), completed in December 2017, the PA serves to ''bridge the gap'' between the scientific information and the judgments required of the Administrator in determining whether to retain or revise the existing primary NAAQS for SO_2.

DATES: The REA and PA will be made available on or about May 9, 2018.

ADDRESSES: These documents will be available primarily via the internet at *https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-air-quality-standards.*

FOR FURTHER INFORMATION CONTACT: Dr. Nicole Hagan, Office of Air Quality Planning and Standards (Mail Code C504–06), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–3153; fax number: 919–541–5315; email: *hagan.nicole@epa.gov.*

SUPPLEMENTARY INFORMATION: Two sections of the Clean Air Act govern the establishment and revision of the NAAQS. Section 108 (42 U.S.C. 7408) directs the Administrator to identify and list certain air pollutants and then to issue air quality criteria for those pollutants. The Administrator is to list those air pollutants that in his ''judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare''; ''the presence of which in the ambient air results from numerous or diverse mobile or stationary sources''; and ''for which . . . [the Administrator] plans to issue air quality criteria . . .'' (42 U.S.C. 7408(a)(1)(A)(C)). Air quality criteria are intended to ''accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health or welfare which may be expected from the presence of [a] pollutant in the ambient air . . .'' (42 U.S.C. 7408(a)(2)). Under section 109 (42 U.S.C. 7409), the EPA establishes primary (health-based) and secondary (welfare-based) NAAQS for pollutants for which air quality criteria are issued. Section 109(d) requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria. Section 109(d)(2) requires that an independent scientific review committee ''shall complete a review of the criteria . . . and the national primary and secondary ambient air quality standards . . . and shall recommend to the Administrator any new . . . standards and revisions of the existing criteria and standards as may be appropriate . . . .'' Since the early 1980s, this independent review function has been performed by the Clean Air Scientific Advisory Committee (CASAC).

The current periodic review of the air quality criteria and primary NAAQS for SO_X began in 2013. The final ISA, prepared for this review by the EPA's Office of Research and Development, was made available in December 2017 (82 FR 58600).[1] The REA and PA build upon information presented in the ISA. Drafts of the REA and PA were reviewed by the CASAC SO_X Panel at a public meeting held on September 18–19, 2017, and a teleconference on April 20, 2018, and were made available for public comment. The CASAC's advice on the draft documents were provided in letters to the EPA Administrator dated April 30, 2018.[2] The final versions of the REA and PA reflect staff's consideration of the advice and comments from CASAC, as well as public comments. The final REA and PA are available at *https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-air-quality-standards.*

Dated: May 8, 2018.

Panagiotis Tsirigotis,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2018–10242 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2004–0093; FRL–9977–99–OAR]

Proposed Information Collection Request; Comment Request; Clean Air Act Tribal Authority (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Clean Air Act Tribal Authority'' (EPA ICR No. 1676.07, OMB Control No. 2060–0306) 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 December 31, 2018. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it

[1] The final ISA is available at: *https://www.epa.gov/naaqs/sulfur-dioxide-so2-primary-standards-integrated-science-assessments-current-review.*

[2] The CASAC letters are available at: *https://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/0125714DA9A892238525827F00751B99/$File/EPA-CASAC-18-001.pdf* and *https://yosemite.epa.gov/sab/sabproduct.nsf/264cb1227d55e02c85257402007446a4/23631E258D63BDEB8525827F0075335E/$File/EPA-CASAC-18-002.pdf.*

displays a currently valid OMB control number.

DATES: Comments must be submitted on or before July 16, 2018.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2004–0093, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-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: Pat Childers, Office of Air and Radiation, Immediate Office, (6101A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–564–1082; fax number: 202–564–0394; email address: *childers.pat@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 Information Collection Request (ICR) seeks authorization for tribes to demonstrate their eligibility to be treated in the same manner as states under the Clean Air Act (CAA) and to submit applications to implement a CAA program. This ICR extends the collection period of information for determining eligibility, which expires December 31, 2018. The ICR maintains the estimates of burden costs for tribes in completing a CAA application.

The program regulation provides for Indian tribes, if they choose, to assume responsibility for the development and implementation of CAA programs. The regulation Indian Tribes: Air Quality Planning and Management (Tribal Authority Rule [TAR] 40 CFR parts 9, 35, 49, 50, and 81) sets forth how tribes may seek authority to implement their own air quality planning and management programs. This rule establishes: (1) Which CAA provisions Indian tribes may seek authority to implement; (2) What requirements the tribes must meet when seeking such authorization; and (3) What federal financial assistance may be available to help tribes establish and manage their air quality programs. The TAR provides tribes the authority to administer air quality programs over all air resources, including non-Indian owned fee lands, whining the exterior boundaries of a reservation and other areas over which the tribe can demonstrate jurisdiction. An Indian tribe that takes responsibility for a CAA program would essentially be treated in the same way as a state would be treated for that program.

Form numbers: None.

Respondents/affected entities: States, locals, Indian tribes.

Respondent's obligation to respond: Voluntary, required to obtain or retain a benefit (Tribal Authority Rule [TAR] 40 CFR parts 9, 35, 49, 50 and 81).

Estimated number of respondents: 8 (total).

Frequency of response: One time applications.

Total estimated burden: 320 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $18,896.00 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in estimates: There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: May 7, 2018.

Pat Childers,

Tribal Program Coordinator, Office of Air and Radiation.

[FR Doc. 2018–10343 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2018–0141; FRL–9977–67]

Chlorpyrifos, Diazinon, and Malathion; National Marine Fisheries Service Biological Opinion Issued Under the Endangered Species Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of March 23, 2018, opening a 60-day comment period for the National Marine Fisheries Service's (NMFS) Biological Opinion on chlorpyrifos, diazinon, and malathion. This document extends the comment period for 60 days, from May 22, 2018 to July 23, 2018. EPA is extending the comment period after receipt and consideration of several extension requests citing the length and complexity of the Biological Opinion, and the additional time needed to compile the necessary information requested by EPA.

DATES: Comments, identified by docket identification (ID) number EPA–HQ–OPP–2018–0141, must be received on or before July 23, 2018.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 23, 2018 (83 FR 12754) (FRL–9975–59).

FOR FURTHER INFORMATION CONTACT: Tracy Perry, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 308–0128; email address: *perry.tracy@epa.gov.*

SUPPLEMENTARY INFORMATION: This document extends the public comment period established in the **Federal Register** document of March 23, 2018. In that document, EPA opened a 60-day comment period for the NMFS Biological Opinion on chlorpyrifos, diazinon, and malathion. EPA is hereby extending the comment period, which

was set to end on May 22, 2018, to July 23, 2018.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of March 23, 2018. If you have questions, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

Authority: 7 U.S.C. 136 *et seq.*

Dated: May 2, 2018.

Yu-Ting Guilaran,

Director, Pesticide Re-Evaluation, Office of Pesticide Programs.

[FR Doc. 2018–10346 Filed 5–14–18; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1085]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 16, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1085.

Title: Section 9.5, Interconnected Voice Over internet Protocol (VoIP) E911 Compliance.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or Households; Business or other for-profit entities; Not-for-profit institutions; State, Local or Tribal government.

Number of Respondents and Responses: 12 respondents; 16,927,624 responses.

Estimated Time per Response: 0.09 hours.

Frequency of Response: Recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47. U.S.C. Sections 1, 4(i), and 251(e)(3) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,543,284 hours.

Total Annual Cost: $253,280,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is obligated by statute to promote ''safety of life and property'' and to ''encourage and facilitate the prompt deployment throughout the United States of a seamless, ubiquitous, and reliable end-to-end infrastructure'' for public safety. Congress has established 911 as the national emergency number to enable all citizens to reach emergency services directly and efficiently, irrespective of whether a citizen uses wireline or wireless technology when calling for help by dialing 911. Efforts by federal, state and local government, along with the significant efforts of wireline and wireless service providers, have resulted in the nearly ubiquitous deployment of this life-saving service.

The Order the Commission adopted on May 19, 2005, sets forth rules requiring providers of VoIP services that interconnect with the nation's existing public switched telephone network (interconnected VoIP services) to supply E911 capabilities to their customers.

To ensure E911 functionality for customers of VoIP service providers the Commission requires the following information collections:

A. Location Registration. Requires providers to interconnected VoIP services to obtain location information from their customers for use in the routing of 911 calls and the provision of location information to emergency answering points.

B. Provision of Automatic Location Information (ALI). Interconnected VoIP service providers will place the location information for their customers into, or make that information available through, specialized databases maintained by local exchange carriers (and, in at least one case, a state government) across the country.

C. Customer Notification. Requires that all providers of interconnected VoIP are aware of their interconnected VoIP service's actual E911 capabilities. That all providers of interconnected VoIP service specifically advise every subscriber, both new and existing, prominently and in plain language, the circumstances under which E911 service may not be available through the interconnected VoIP service or may be in some way limited by comparison to traditional E911 service.

D. Record of Customer Notification. Requires VoIP providers to obtain and

keep a record of affirmative acknowledgement by every subscriber, both new and existing, of having received and understood this advisory.

E. User Notification. In addition, in order to ensure to the extent possible that the advisory is available to all potential users of an interconnected VoIP service, interconnected VoIP service providers must distribute to all subscribers, both new and existing, warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on or near the customer premises equipment used in conjunction with the interconnected VoIP service.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–10340 Filed 5–14–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Item From Sunshine Act Meeting

May 7, 2018.

The following item has been deleted from the list of items scheduled for consideration at the Thursday, May 10, 2018, Open Meeting and previously listed in the Commission's Notice of May 3, 2018.

5	MEDIA	TITLE: Hearing Designation Order SUMMARY: The Commission will consider a Hearing Designation Order.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2018–10407 Filed 5–11–18; 11:15 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0298]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 14, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0298.

Title: Part 61, Tariffs (Other than the Tariff Review Plan).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 2,840 respondents; 5,543 responses.

Estimated Time per Response: 30–50 hours.

Frequency of Response: On occasion, annual, biennial and one-time reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151–155, 201–205, 208, 251–271, 403, 502 and 503 of the Communications Act of 1934, as amended.

Total Annual Burden: 195,890 hours.

Total Annual Cost: $1,369,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Respondents are not being asked to submit confidential information to the Commission. If the Commission requests respondents to submit information which respondents believe are confidential, respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: On April 28, 2017, the Commission released the *Business Data Services Order,* WC Docket No. 16–143 *et al.,* FCC 17–43, which establishes a new regulatory framework for business data services. Under this framework, price cap incumbent LECS are no longer subject to price cap regulation of their: (a) Packet-based business data services; (b) time-division multiplexing (TDM) transport business data services; (c) TDM business data services with bandwidth in excess of a DS3; and (d) DS1 and DS3 end user channel terminations, and other lower bandwidth TDM business data services, to the extent a price cap incumbent LEC provides them in counties deemed competitive under the Commission's competitive market test or in counties for which the price cap incumbent LEC had obtained Phase II pricing flexibility under the Commission's prior regulatory regime. The *Business Data Services Order* required that, within 36 months of its effective date (*i.e.,* by August 1, 2020), price cap incumbent LECs must remove all business data services that are no longer subject to price cap regulation from their interstate tariffs. The Order also required that, by that same deadline, competitive LECs must remove all business data services from their interstate tariffs.

The information collected through the carriers' tariffs is used by the Commission and state commissions to determine whether services offered are just and reasonable as the Act requires. The tariffs and any supporting documentation are examined in order to determine if the services are offered in a just and reasonable manner.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–10334 Filed 5–14–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX and 3060–XXXX]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before June 14, 2018.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the Title as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of Commission ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the Commission's submission to OMB will be displayed.

OMB Control Number: 3060–XXXX.

Title: Next Gen TV/ATSC 3.0 Local Simulcasting Rules; 47 CFR 73.3801 (full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV) and FCC Form 2100 (Next Gen TV License Application).

Form Number: FCC Form 2100 (Next Gen TV License Application).

Type of Review: New collection.

Respondents: Business or other for-profit entities, state, local, or tribal government and not for profit institutions.

Number of Respondents and Responses: 1,130 respondents; 4,760 responses.

Estimated Time per Response: 0.017–8 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

Total Annual Burden: 3,504 hours.

Total Annual Cost: $130,500.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: On November 20, 2017, the Commission released a Report and Order (Order), FCC 17–158, in GN Docket No. 16–142, authorizing television broadcasters to use the ''Next Generation'' broadcast television (Next Gen TV) transmission standard, also called ''ATSC 3.0'' or ''3.0,'' on a voluntary, market-driven basis. This authorization is subject to broadcasters continuing to deliver current-generation digital television (DTV) service, using the ATSC 1.0 transmission standard,

also called ''ATSC 1.0'' or ''1.0,'' to their viewers. The requirement to continue to provide ATSC 1.0 service is called ''local simulcasting.'' The local simulcasting rules (47 CFR 73.3801 (full-power TV), 73.6029 (Class A TV), and 74.782 (low-power TV),) contain the following information collection requirements which require OMB approval.

License Application to FCC/FCC Form 2100 (Reporting Requirement; 47 CFR 73.3801(f), 73.6029(f), and 74.782(g)): A broadcaster must file an application (FCC Form 2100) with the Commission, and receive Commission approval, before: (i) Moving its ATSC 1.0 signal to the facilities of a host station, moving that signal from the facilities of an existing host station to the facilities of a different host station, or discontinuing an ATSC 1.0 guest signal; (ii) commencing the airing of an ATSC 3.0 signal on the facilities of a host station (that has already converted to ATSC 3.0 operation), moving its ATSC 3.0 signal to the facilities of a different host station, or discontinuing an ATSC 3.0 guest signal; or (iii) converting its existing station to transmit an ATSC 3.0 signal or converting the station from ATSC 3.0 back to ATSC 1.0 transmissions. As directed by the Commission, the Media Bureau will be amending FCC Form 2100 and the relevant schedules (Schedules B, D & F)(See Schedule B—Full Power License to cover application (OMB control number 3060–0837); Schedule D—LPTV/Translator License to cover application (OMB control number 3060–0017); and Schedule F—Class A License to cover application (OMB control number 3060–0928)) as necessary to implement the Next Gen TV licensing process and collect the required information (detailed below). The form will be revised to establish the streamlined ''one-step'' licensing process for Next Gen TV applicants, including adding the above listed purposes (i–iii) to the form. FCC staff will use the license application to determine compliance with FCC rules and to determine whether the public interest would be served by grant of the application for a Next Gen TV station license.

Next Gen TV Broadcaster On-Air Notices to Consumers (Third-Party Disclosure Requirement; 47 CFR 73.3801(g), 73.6029(g), and 74.782(h)): Commercial and noncommercial educational (NCE) broadcast TV stations that relocate their ATSC 1.0 signals (*e.g.,* moving to a host station's facility, subsequently moving to a different host, or returning to its original facility) are required to air daily Public Service Announcements (PSAs) or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations on their existing facilities. Stations that transition directly to ATSC 3.0 will be required to air daily PSAs or crawls every day for 30 days prior to the date that the stations will terminate ATSC 1.0 operations. Broadcaster on-air notices to consumers will be used to inform consumers if stations they watch will be changing channels and encouraged to rescan their receivers for new channel assignments.

Next Gen TV Broadcaster Written Notices to MVPDs (Third-Party Disclosure Requirement; 47 CFR 73.3801(h), 73.6029(h), and 74.782(i)): Next Gen TV stations relocating their ATSC 1.0 signals (*e.g.,* moving to a temporary host station's facilities, subsequently moving to a different host, or returning to its original facility) must provide notice to MVPDs that: (i) No longer will be required to carry the station's ATSC 1.0 signal due to the relocation; or (ii) carry and will continue to be obligated to carry the station's ATSC 1.0 signal from the new location. Broadcaster notices to multichannel video programming distributors (MVPDs) will be used to notify MVPDs that carry a Next Gen TV broadcast station about channel changes and facility information.

Local Simulcasting Agreements (Recordkeeping Requirement; 47 CFR 73.3801(e), 73.6029(e), and 74.782(f)): Broadcasters must maintain a written copy of any local simulcasting agreement and provide it to the Commission upon request. FCC staff will review the local simulcasting agreement (when applicable) to determine compliance with FCC rules and to determine whether the public interest would be served by grant of the application for a Next Gen TV station license.

OMB Control Number: 3060–XXXX.

Title: Rules and Policies Regarding Calling Number Identification Service—Caller ID, CC Docket No. 91–281.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 46,291 pool of respondents; 1,705 responses.

Estimated Time per Response: .083 hours (5 minutes).

Frequency of Response: Monthly and on-going reporting requirements.

Obligation to Respond: Required to obtain or retain benefit. The statutory authority for the information collection requirements is found at section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. 201(b), and section 222, 47 U.S.C. 222. The Commission's implementing rules are codified at 47 CFR 64.1600–01.

Total Annual Burden: 142 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: The Commission amended rules requiring that carriers honor privacy requests to state that § 64.1601(b) of the Commission's rules shall not apply when calling party number (CPN) delivery is made in connection with a threatening call. Upon report of such a threatening call by law enforcement on behalf of the threatened party, the carrier will provide any CPN of the calling party to law enforcement and, as directed by law enforcement, to security personnel for the called party for the purpose of identifying the party responsible for the threatening call. Carriers now have a recordkeeping requirement in order to quickly provide law enforcement with information relating to threatening calls.

The Commission also amended rules to allow non-public emergency services to receive the CPN of all incoming calls from blocked numbers requesting assistance. The Commission believes amending its rules to allow non-public emergency services access to blocked Caller ID promotes the public interest by ensuring timely provision of emergency services without undermining any countervailing privacy interests. Carriers now have a recordkeeping requirement in order to provide emergency serve providers with the information they need to assist callers.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2018–10336 Filed 5–14–18; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 83 FR 19558.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, May 8, 2018 at 10:00 a.m.

CHANGES IN THE MEETING: This meeting was continued on Thursday, May 10, 2018.

* * * * *

CONTACT FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2018–10384 Filed 5–11–18; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Agency Information Collection Activities: Proposed Information Collection; Submission for OMB Review

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC).

ACTION: Notice and request for comment.

SUMMARY: The ASC, as part of continuing efforts to reduce paperwork and respondent burden, invites the general public, and State and Federal agencies to take this opportunity to comment on a new proposed information collection as required by the Paperwork Reduction Act of 1995.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The ASC is soliciting comment concerning its information collection titled ''Reporting information for the AMC Registry.''

DATES: Comments must be received by June 14, 2018.

ADDRESSES: Commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: https://www.Regulations.gov.* Follow the instructions for submitting comments. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: webmaster@asc.gov.*
- *Fax:* (202) 289–4101.
- *Mail:* Address to Appraisal Subcommittee, Attn: Lori Schuster, Management and Program Analyst, 1401 H Street NW, Suite 760, Washington, DC 20005.
- *Hand Delivery/Courier:* 1401 H Street NW, Suite 760, Washington, DC 20005.

Additionally, please send a copy of your comments to the ASC Desk Officer, 3139–NEW, by mail to U.S. Office of Management and Budget, 725 17th Street NW, Room 10235, Washington, DC 20503, or by Email to *oira_submission@omb.eop.gov.*

In general, the ASC will enter all comments received on the Federal eRulemaking (*Regulations.gov*) website without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. At the close of the comment period, all public comments will also be made available on the ASC's website at *https://www.asc.gov* (follow link in ''What's New'') as submitted, unless modified for technical reasons.

You may review comments by any of the following methods:

- *Viewing Comments Electronically:* Go to *https://www.Regulations.gov*. Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect comments at the ASC office, 1401 H Street NW, Suite 760, Washington, DC 20005. To make an appointment, please call Lori Schuster at (202) 595–7578.

FOR FURTHER INFORMATION CONTACT: James R. Park, Executive Director, at (202) 595–7575, or Alice M. Ritter, General Counsel, at (202) 595–7577, Appraisal Subcommittee, 1401 H Street NW, Suite 760, Washington, DC 20005.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, the ASC has submitted the following proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance.

Reporting Information for the AMC Registry—(OMB Control Number To Be Assigned)

Section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) [1] included amendments to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [2] (Title XI). Section 1103 of Title XI,[3] *Functions of Appraisal Subcommittee,* was amended by the Dodd-Frank Act to require the ASC to maintain a national registry of appraisal management companies (AMCs) of those AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) are operating subsidiaries of a Federally regulated financial institution (Federally regulated AMCs). Section 1117 of Title XI,[4] *Establishment of State appraiser certifying and licensing agencies,* was amended by the Dodd-Frank Act to include additional duties for States, if they so choose, to: (1) Register and supervise AMCs; and (2) add information about AMCs in their State to the national registry of AMCs (AMC Registry). Section 1124 of the Dodd-Frank Act required the federal banking agencies, the Federal Housing Finance Agency, and the Consumer Financial Protection Bureau (collectively, the Agencies) to jointly promulgate a rule establishing minimum requirements for the State supervision and registration of AMCs, and to promulgate regulations for the reporting of activities of AMCs to the ASC.[5] The Agencies' implementing regulations provide that each State electing to register AMCs pursuant to Title XI must submit information to the ASC concerning AMCs that operate in the State, including AMCs' violations of law, disciplinary and enforcement actions against AMCs, and other relevant information about AMCs' operations.[6] The Agencies' implementing regulations also provide that a Federally regulated AMC must report to the State or States in which it operates the reporting requirements established by the ASC.[7] This notice is being issued pursuant to these requirements.

Description of Reporting Information for the AMC Registry

The Dodd-Frank Act requires the ASC to maintain the AMC Registry of those AMCs that are either: (1) Registered with and subject to supervision by a State that has elected to register and supervise AMCs; or (2) are Federally regulated AMCs. In order for a State that elects to register and supervise AMCs to enter an AMC on the AMC Registry, the following items are proposed to be required entries by the State via extranet application on the AMC Registry:

[1] Public Law 111–203, 124 Stat. 1376.

[2] Public Law 101–73, 103 Stat. 183.

[3] 12 U.S.C. 3332.

[4] 12 U.S.C. 3346.

[5] *See* 12 U.S.C. 3332(a), (e).

[6] *See* 12 CFR 34.216, 34.213(a)(7); 12 CFR 225.196, 225.193(a)(7); 12 CFR 323.14, 323.11(a)(7); 12 CFR 1222.26, 1222.23(a)(7).

[7] *See* 12 CFR 34.215(c); 12 CFR 225.195(c); 12 CFR 323.13(c); 12 CFR 1222.25(c).

State Abbreviation
State Registration Number for AMC
Employer Identification Number (EIN)
AMC Name
  Street Address
  City
  State
  Zip
License or Registration Status
  Effective Date
  Expiration Date
AMC Type (State or multi-State)
Disciplinary Action
  Effective Date
  Expiration Date
Number of Appraisers (for invoicing registry fee)

States listing AMCs on the AMC Registry will enter the above information for each AMC for the initial entry only. After the initial entry, the information is retained on the AMC Registry, and will only need to be amended if necessary by the State.

Comment Summary

In the **Federal Register** of January 29, 2018 (83 FR 4046), the ASC published a 60-day notice requesting public comment on Reporting information for the AMC Registry and the collection of information. The ASC received 4 comment letters that were not responsive to the request for comments addressing irrelevant subject matter.

Burden Estimates

The estimate for burden assumes that 50 States will elect to supervise and register AMCs, and that the average number of AMCs in a State will be 150. This estimate is based on information currently available, and will be high for some States, and low for other States. The initial entry by a State on a single AMC is estimated to take 15 minutes. Subsequent entries to amend information on an AMC, annually or periodically, are estimated to be negligible.

Type of Review: Regular.

Affected Public: States.

Estimated Number of Respondents: 50 States.

Estimated burden per Response: 15 minutes.

Frequency of Response: Annually and on occasion.

Estimated total Annual Burden: 1,875 hours.

Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

By the Appraisal Subcommittee,

Dated: May 10, 2018.

Arthur Lindo,

Chairman.

[FR Doc. 2018–10327 Filed 5–14–18; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Agency information collection activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks (FR 2502q; OMB No. 7100–0079).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC, 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report:

Report title: Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks.

Agency form number: FR 2502q.

OMB control number: 7100–0079.

Frequency: Quarterly.

Respondents: U.S. commercial banks, bank holding companies, including financial holding companies, and banking Edge and agreement corporations (U.S. banks) for their large branches and banking subsidiaries that are located in the United Kingdom or the Caribbean.

Estimated number of respondents: 27.

Estimated average hours per response: 1.

Estimated annual burden hours: 108.

General description of report: The FR 2502q collects, for each reporting office, claims on and liabilities to residents of the United States and of all countries as of each quarter-end. Additional details are collected about positions vis-à-vis U.S. residents. Positions vis-à-vis other non-U.S. offices of the parent bank and positions arising from derivatives contracts are also broken out. The data are used in constructing a piece of the Financial Accounts of the United States that are compiled by the Board and in preparing the U.S. International Transactions Accounts and the International Investment Position that are compiled by the Bureau for Economic Analysis (BEA), an agency of the Department of Commerce.

Legal authorization and confidentiality: The Board is authorized to collect the information in the 2502q from (1) bank holding companies pursuant to section 5 of the Bank Holding Company Act (12 U.S.C. 1844(c)), which authorizes the Board to require a bank holding company and any subsidiary to submit reports, (2) Edge and agreement corporations pursuant to section 25A(17) of the Federal Reserve Act (''FRA'') (12 U.S.C. 625), which authorizes the Board to require Edge and agreement corporations to make reports to the Board, and (3) depository institutions pursuant to section 11(a)(2) of the FRA

(12 U.S.C. 248(a)(2)), which authorizes the Board to require reports from each member bank as it may deem necessary and authorizes the Board to prescribe reports of liabilities and assets from insured depository institutions to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. The FR 2502q report is mandatory. The information from this collection would not be accorded confidential treatment because release of the information is not likely to result in substantial harm to the competitive position of the respondents. If confidential treatment is requested by a respondent, the Board will review the request to determine if confidential treatment is appropriate.

Current actions: On February 22, 2018, the Federal Reserve published a notice in the **Federal Register** (83 FR 7725) requesting public comment for 60 days on the extension, without revision, of the Quarterly Report of Assets and Liabilities of Large Foreign Offices of U.S. Banks (FR 2502q; OMB No. 7100–0079). The comment period for this notice expired on April 23, 2018. The Federal Reserve did not receive any comments.

Board of Governors of the Federal Reserve System, May 9, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10266 Filed 5–14–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and the Quarterly Report of Credit Card Plans (FR 2835; FR 2835a; OMB No. 7100–0085).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and Quarterly Report of Credit Card Plans.

Agency form number: FR 2835; FR 2835a.

OMB control number: 7100–0085.

Frequency: Quarterly.

Respondents: Commercial banks.

Estimated number of respondents: FR 2835: 150; FR 2835a: 50.

Estimated average hours per response: FR 2835: .29 hours; FR 2835a: .50 hours.

Estimated annual burden hours: FR 2835: 176 hours; FR 2835a: 100 hours.

General description of report: The FR 2835 collects information from a sample of commercial banks on interest rates charged on loans for new vehicles and loans for other consumer goods and personal expenses. The data are used for the analysis of household financial conditions. The FR 2835a collects information on two measures of credit card interest rates from a sample of commercial banks with $1 billion or more in credit card receivables and a representative group of smaller issuers. The data are used to analyze the credit card market and draw implications for the household sector.

Legal authorization and confidentiality: The Board is authorized to collect the information on the FR 2835 and FR 2835a by sections 2A and 11 of the Federal Reserve Act (''FRA''). Section 2A of the FRA (12 U.S.C. 225a) requires that the Board and the Federal Open Market Committee (''FOMC'') maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates. Section 11 of the FRA (12 U.S.C. 248(a)) authorizes the Board to require reports from each member bank as it may deem necessary and authorizes the Board to prescribe reports of liabilities and assets from insured depository institutions to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. The information collected on the FR 2835 and FR 2835a assist the Board and the FOMC with fulfilling these obligations. Both the 2835 and 2835a are voluntary. With respect to the FR 2835, only the narrative information to explain large fluctuations in reported data is considered confidential. With respect to the 2835a, the individual respondent data is considered confidential. Such treatment is appropriate because the data is not publicly available and the public release of this data is likely to impair the Board's ability to collect necessary information in the future and cause substantial harm to the competitive position of the respondent. Thus, this information may be kept confidential under exemption (b)(4) of the Freedom of Information Act, which exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.'' (5 U.S.C. 552(b)(4)).

Current actions: On February 21, 2018, the Board published a notice in the **Federal Register** (83 FR 7475) requesting public comment for 60 days on the extension, without revision, of the Quarterly Report of Interest Rates on Selected Direct Consumer Installment Loans and the Quarterly Report of Credit Card Plans. The comment period for this notice expired on April 23, 2018. The Board did not receive any comments. The information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, May 9, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10267 Filed 5–14–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Senior Financial Officer Survey (FR 2023; OMB No. 7100–0223).

DATES: Comments must be submitted on or before July 16, 2018.

ADDRESSES: You may submit comments, identified by FR 2023, by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments are available from the Board's website at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove sensitive PII (personally identifiable information) at the commenter's request. Public comments may also be viewed electronically or in paper form in Room 3515, 1801 K Street NW, (between 18th and 19th Streets NW), Washington, DC 20006 between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal prior to giving final approval.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

Report title: Senior Financial Officer Survey.

Agency form number: FR 2023.

OMB control number: 7100–0223.

Frequency: Up to four times a year.

Respondents: Domestically chartered large commercial banks.

Estimated number of respondents: 80.

Estimated average hours per response: 3 hours.

Estimated annual burden hours: 960 hours.

General description of report: The Board uses the surveys in this collection to gather qualitative and limited quantitative information about liability management, the provision of financial services, and the functioning of key financial markets. Responses are obtained from a senior officer at each participating institution usually through an electronic submission. Although a survey may not be collected in a given year, the Board may conduct up to four surveys per year when informational needs arise and cannot be met from existing data sources. The survey does not have a fixed set of questions; each survey consists of a limited number of questions directed at topics of timely interest.

Legal authorization and confidentiality: The FR 2023 is a voluntary survey. Section 2A of the Federal Reserve Act (FRA) requires that the Board and the Federal Open Market Committee (FOMC) maintain long-run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates (12 U.S.C. 225a). In addition, under section 12A of the FRA, the FOMC is required to implement regulations relating to the open market operations conducted by Federal Reserve Banks. Those transactions must be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country (12 U.S.C. 263). The Board and the FOMC use the information obtained from the FR 2023 to help fulfill these obligations.

The questions asked on each survey will vary, so the ability of the Board to maintain the confidentiality of information collected must be determined on a case by case basis. It is likely that much of the information collected would constitute confidential financial information obtained from a person and would thus be protected from disclosure under exemption 4 to the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(4)). Exemption 8 to FOIA, which protects information related to examination, operating, or condition reports prepared for the use of an agency supervising financial institutions, may also occasionally apply (5 U.S.C. 552(b)(8)).

Board of Governors of the Federal Reserve System, May 9, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10268 Filed 5–14–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, with revision, the Reports of Deposits (FR 2900; OMB No. 7100–0087). The revisions are applicable as of September 2018.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final Approval Under OMB Delegated Authority of the Extension for Three Years With Revision, of the Following Reports

Report title: Report of Transaction Accounts, Other Deposits, and Vault Cash (FR 2900); Annual Report of Deposits and Reservable Liabilities (FR 2910a); Report of Foreign (Non-U.S.) Currency Deposits (FR 2915); and Allocation of Low Reserve Tranche and Reservable Liabilities Exemption (FR 2930).

Agency form number: FR 2900; FR 2910a; FR 2915; and FR 2930.

OMB control number: 7100–0087.

Effective Date: June 14, 2018.

Frequency: Weekly, quarterly, annually, and on occasion.

Respondents: Depository institutions.

Estimated number of respondents: FR 2900 (Weekly), 2,007; FR 2900 (Quarterly), 4,395; FR 2910a, 2,941; FR 2915, 122; and FR 2930, 93.

Estimated average hours per response: FR 2900 (Weekly), 1.25; FR 2900 (Quarterly), 3; FR 2910a, 0.75; FR 2915, 0.5; and FR 2930, 0.25.

Estimated annual burden hours: FR 2900 (Weekly), 130,455; FR 2900 (Quarterly), 52,740; FR 2910a, 2,206; FR 2915, 244; FR 2930, 23.

General description of reports: Data from these mandatory reports are used by the Board for administering Regulation D (Reserve Requirements of Depository Institutions) and for constructing, analyzing, and monitoring the monetary and reserve aggregates. The FR 2900 is the primary source of data used for the calculation of required reserves and applied vault cash, and for the construction and analysis of the monetary aggregates. Data are also used for (1) indexing the exemption amount and low reserve tranche amount each year, as required by statute, and (2) indexing the nonexempt deposit cutoff and reduced reporting limit each year, as determined by the Board. The amounts of the deposit cutoff and reporting limit determine whether depository institutions file the FR 2900 either weekly or quarterly. The FR 2910a is generally submitted by exempt institutions whose total deposits (as shown on their December Call Report) [1] are greater than the exemption amount. All FR 2900 respondents, both weekly and quarterly, that offer deposits denominated in foreign currencies at their U.S. offices file the FR 2915 quarterly on the same reporting schedule as quarterly FR 2900 respondents. Foreign currency deposits are subject to reserve requirements and, therefore, are included in the FR 2900 data. However, because foreign currency deposits are not included in the monetary aggregates, the FR 2915 data are used to net foreign currency-denominated deposits from the FR 2900 data to exclude them from measures of the monetary aggregates. The FR 2930 data are collected when the low reserve tranche and reservable liabilities exemption thresholds are adjusted toward the end of each calendar year or upon the establishment of an office outside the home state or Federal Reserve District.

Legal authorization and confidentiality: The information collected on these reports is authorized under sections 11, 25(7), and 25A(17) of the Federal Reserve Act (FRA), and section 7 of the International Banking Act (IBA). Section 11 of the FRA (12 U.S.C. 248(a)) authorizes the Board to require reports from each member bank as it may deem necessary and authorizes the Board to prescribe reports of liabilities and assets from insured depository institutions to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Sections 25(7) and 25A(17) of the FRA (12 U.S.C. 604a and 625) authorize the Board to require Edge and agreement corporations to make reports to the Board. Section 7 of the IBA (12 U.S.C. 3105(c)(2)) authorizes the Board to require reports from U.S. branches and agencies of foreign banks. The FR 2900, FR 2910a, FR 2915, and FR 2930 are all mandatory. The release of data collected on these forms would likely cause substantial harm to the competitive position of the respondent if made publicly available. The data collected on these forms, therefore, may

[1] In this document, the term Call Report refers to the Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036) filed by commercial banks, Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100–0032), Statement of Financial Condition (NCUA 5300; OMB No. 3133–0004) filed by credit unions, and Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b; OMB No. 7100–0086).

be kept confidential under exemption 4 of the Freedom of Information Act, which protects from disclosure trade secrets and commercial or financial information (5 U.S.C. 552(b)(4)).

Current actions: On February 21, 2018, the Federal Reserve published a notice in the **Federal Register** (83 FR 7474) requesting public comment for 60 days on the extension, with revision, of the Reports of Deposits (FR 2900; OMB No. 7100–0087). The Board proposes raising the nonexempt deposit cutoff to $1 billion, substantially increasing the cutoff from its indexed amount of $457.5 million that is set to take effect in September 2018. This proposed increase in the nonexempt deposit cutoff would reduce reporting burden on depository institutions while maintaining accurate measurements of the money and reserves aggregates. With this increase, the Board estimates that approximately 1,000 depository institutions would become newly eligible to elect to shift from weekly to quarterly FR 2900 reporting. However, consistent with current policy, newly eligible institutions for quarterly reporting may elect to continue reporting weekly. There are no changes proposed for the FR 2910a, FR 2915, or FR 2930. The comment period for this notice expired on April 23, 2018. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

Board of Governors of the Federal Reserve System, May 9, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10264 Filed 5–14–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Senior Loan Officer Opinion Survey on Bank Lending Practices (FR 2018; OMB No. 7100–0058).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Final approval under OMB delegated authority of the extension for three years, without revision, of the following report:

Report title: Senior Loan Officer Opinion Survey on Bank Lending Practices.

Agency form number: FR 2018.

OMB control number: 7100–0058.

Frequency: Up to six times a year.

Respondents: Domestically chartered large commercial banks and large U.S. branches and agencies of foreign banks.

Estimated number of respondents: 104.

Estimated average hours per response: 2 hours.

Estimated annual burden hours: 1,248 hours.

General description of report: The FR 2018 is conducted with a senior loan officer at each respondent bank, generally through electronic submission, up to six times a year. The purpose of the survey is to provide qualitative and limited quantitative information on credit availability and demand, as well as evolving developments and lending practices in the U.S. loan markets. A portion of each survey typically covers special topics of timely interest. There is the option to survey other types of respondents (such as other depository institutions, bank holding companies, or other financial entities) should the need arise. The FR 2018 survey provides crucial information for monitoring and understanding the evolution of lending practices at banks and developments in credit markets.

Legal authorization and confidentiality: The Board's Legal Division has determined that the Senior Loan Officer Opinion Survey on Bank Lending Practices is authorized by Sections 2A, 11, and 12A of the Federal Reserve Act (12 U.S.C. 225a, 248(a), and 263) and Section 7 of the International Banking Act (12 U.S.C. 3105(c)(2)) and is voluntary. Individual survey responses from each respondent can be held confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)). However, certain data from the survey is reported in aggregate form and the information in aggregate form is made publicly available and not considered confidential.

Current actions: On February 21, 2018, the Board published a notice in the **Federal Register** (83 FR 7477) requesting public comment for 60 days on the extension, without revision, of the Senior Loan Officer Opinion Survey on Bank Lending Practices. The comment period for this notice expired on April 23, 2018. The Board did not receive any comments. The information collection will be extended as proposed.

Board of Governors of the Federal Reserve System, May 9, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10265 Filed 5–14–18; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB); Comment Request

Title: Sponsorship Review Procedures for Approval for Unaccompanied Alien Children.

OMB No.: 0970–0278.

Description: The Administration for Children (ACF), Office of Refugee Resettlement (ORR) requests the use of emergency processing procedures in accordance with 5 CFR Section 1320.13 to expand the scope of an existing information collection under OMB control number 0970–0278, Reunification Procedures for

Unaccompanied Alien Children, renamed to Sponsorship Review Procedures for Approval of Unaccompanied Alien Children. The information collection will allow ACF to conduct suitability assessments to vet potential sponsors of unaccompanied alien children in accordance with a Memorandum of Agreement (MOA) between ORR and the Department of Homeland Security. Specifically, the information collection allows ORR to obtain biometric and biographical information from sponsors, adult members of their household, and adult care givers identified in a sponsor care plan, where applicable. ORR in turn shares the information collected with other federal departments to conduct background checks. ORR intends the instruments used in this submission to be available for use by mid-May 2018.

ACF cannot reasonably comply with the normal clearance procedures because the use of normal clearance procedures is reasonably likely to prevent the collection of needed information in a timely manner. Complying with the normal clearance procedures would delay or disrupt ORR's ability to expand the background checks in order to more comprehensively evaluate the suitability of potential sponsors of unaccompanied alien children, and to ensure safe and appropriate placement of children. The information collection is essential to the mission of the agency.

Respondents: Sponsors, adult household members, parents or legal guardians of unaccompanied alien children.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Family reunification application	50,000	1	0.5	25,000
Authorization for Release of Information	90,000	1	0.25	22,500
Fingerprint Instructions	90,000	1	1	90,000
Letter of Designation	25,000	1	0.25	6,250

Estimated Total Annual Burden per Respondent: 143,750.

Additional Information:

ACF is requesting that OMB grant approval for this information collection under procedures for emergency processing through October 31, 2018, the expiration date for the already approved information collection. ACF requests approval of the expanded information collection by May 11, 2018. Although ACF is seeking immediate approval of the specific aspects of the information collection described above, ACF is also soliciting public comment on these aspects of the information collection and on the information collection more generally.

Copies of the proposed collection of information for emergency processing and public comment can be obtained at *reginfo.gov* by searching for OMB Control No. 0970–0278. Comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: May 11, 2018.

Naomi Goldstein,

Deputy Assistant Secretary for Planning, Research, and Evaluation.

[FR Doc. 2018–10452 Filed 5–11–18; 4:15 pm]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1621]

Patient-Focused Drug Development on Chronic Pain; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a public meeting and an opportunity for public comment on ''Patient-Focused Drug Development for Chronic Pain.'' The public meeting will provide patients (including adult and pediatric patients) with an opportunity to present to FDA their perspectives on the impacts of chronic pain, views on treatment approaches for chronic pain, and challenges or barriers to accessing treatments. FDA is particularly interested in hearing from patients who experience chronic pain that is managed with analgesic medications such as opioids, acetaminophen, nonsteroidal anti-inflammatory drugs (NSAIDs), antidepressants; other medications; and non-pharmacologic interventions or therapies.

DATES: The public meeting will be held on July 9, 2018, from 10 a.m. to 4 p.m. Submit either electronic or written comments on this public workshop by September 10, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public meeting will be held at FDA's White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before September 10, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of September 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–1621 for ''Patient-Focused Drug Development on Chronic Pain; Public Meeting; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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:

Meghana Chalasani, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1146, Silver Spring, MD 20993–0002, 240–402–6525, Fax: 301–847–8443, *Meghana.Chalasani@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

This meeting will provide FDA the opportunity to better understand patients' perspectives on the impacts of chronic pain, patient views on treatment approaches for chronic pain, and challenges or barriers to accessing treatments. Chronic pain is defined as either pain that persists for more than 3 months or pain that lasts more than 1 month beyond the normal healing time. Chronic pain is diverse and can include primary pain, cancer pain, postsurgical and posttraumatic pain, neuropathic pain, headache and orofacial pain, visceral pain, and musculoskeletal pain. There are a number of therapeutic approaches for the treatment of chronic pain, including prescription and non-prescription medications, invasive and non-invasive medical devices, and behavioral and physical therapies. FDA is particularly interested in patients' (including adult and pediatric patients) perspectives on types of chronic pain that are managed with analgesic medications such as opioids, acetaminophen, NSAIDs, antidepressants; other medications; and non-pharmacologic interventions or therapies.

At the meeting, patients and patient representatives will provide patient perspectives on the symptoms and daily impacts of chronic pain and on treatment approaches for chronic pain. The questions that will be asked of patients and patient representatives at the meeting are listed in the following section and organized by topic. For each topic, a brief initial patient panel discussion will begin the dialogue. This will be followed by a facilitated discussion inviting comments from other patient and patient representative participants. In addition to input generated through this public meeting, FDA is interested in receiving patient and patient representative input addressing these questions through written comments, which can be submitted to the public docket (see **ADDRESSES**). When submitting comments, if you are commenting on behalf of a patient, please indicate that you are doing so and answer the following questions as much as possible from the patient's perspective.

FDA will post the agenda and other meeting materials approximately 5 days before the meeting at: *https://www.fda.gov/Drugs/NewsEvents/ucm603093.htm.*

II. Topics for Discussion at the Public Meeting

Topic 1: Symptoms and Daily Impacts of Chronic Pain That Matter Most to Patients

1. How would you describe your chronic pain? (Characteristics could include location, radiation, intensity, duration, constancy or intermittency, triggers etc.)

2. What are the most significant symptoms that you experience resulting from your condition? (Examples may include restricted range of motion, muscle spasms, changes in sensation, etc.)

3. Are there specific activities that are important to you but that you cannot do at all or as fully as you would like because of your chronic pain? (Examples of activities may include work or school activities, sleeping

through the night, daily hygiene, participation in sports or social activities, intimacy with a spouse or partner, etc.)

4. How has your chronic pain changed over time? (Considerations include severity and frequency of your chronic pain and the effects of chronic pain on your daily activities.)

Topic 2: Patients' Perspectives on Current Approaches to Treatment of Chronic Pain

1. What are you currently doing to help treat your chronic pain? (Examples may include prescription medicines, over-the-counter products, and non-drug therapies.)

a. How has your treatment regimen changed over time, and why? (Examples may include change in your condition, change in dose, or treatment side effects.)

b. What factors do you take into account when making decisions about selecting a course of treatment?

2. How well does your current treatment regimen manage your chronic pain? (Considerations include severity and frequency of your chronic pain and the effects of chronic pain on your daily activities.)

3. What are the most significant downsides to your current treatments, and how do they affect your daily life?

4. What challenges or barriers to accessing or using medical treatments for chronic pain have you or do you encounter?

5. What specific things would you look for in an ideal treatment for your chronic pain?

III. Participating in the Public Meeting

Registration: To register for the public meeting, visit *https://chronicpain-pfdd.eventbrite.com.* Please register by July 2, 2018. Persons without access to the internet can call 240–402–6525 to register. If you are unable to attend the meeting in person, you can register to view a live webcast of the meeting. You will be asked to indicate in your registration if you plan to attend in person or via the webcast.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public meeting must register by July 2, 2018. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. Registrants will receive confirmation once they have been accepted. If time and space permit, onsite registration on the day of the public meeting will be provided beginning at 9 a.m. If you need special accommodations because of a disability, please contact Meghana Chalasani (see **FOR FURTHER INFORMATION CONTACT**) no later than July 2, 2018.

Panelist Selection: Patients or patient representatives who are interested in presenting comments as part of the initial panel discussions will be asked to indicate in their registration which topic(s) they wish to address. These patients or patient representatives also will be asked to send *PatientFocused@fda.hhs.gov* a brief summary of responses to the topic questions by June 25, 2018. Panelists will be notified of their selection approximately 7 days before the public meeting. We will try to accommodate all patients and patient stakeholders who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

Open Public Comment: There will be time allotted during the meeting for open public comment. Signup for this session will be on a first-come, first-serve basis on the day of the workshop. Individuals and organizations with common interests are urged to consolidate or coordinate and request time for a joint presentation. No commercial or promotional material will be permitted to be presented or distributed at the public workshop.

Streaming Webcast of the Public Meeting: This public meeting will also be webcast. Please register for the webcast by visiting *https://chronicpain-pfdd.eventbrite.com.*

If you have never attended a Connect Pro event before, test your connection at *https://collaboration.fda.gov/common/help/en/support/meeting_test.htm.* To get a quick overview of the Connect Pro program, visit *https://www.adobe.com/go/connectpro_overview.* FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/Drugs/NewsEvents/ucm603093.htm.*

Dated: May 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10284 Filed 5–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–1837]

Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic User Fee Payment Request Forms

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 electronic user fee payment request forms.

DATES: Submit either electronic or written comments on the collection of information by July 16, 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 16, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 16, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note

that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–N–1837 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Electronic User Fee Payment Request Forms.'' 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: 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: 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 these topics: (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.

Electronic User Fee Payment Request Forms—Form FDA 3913 and Form FDA 3914

OMB Control Number 0910–0805—Extension

Form FDA 3913, User Fee Payment Refund Request, is designed to provide the minimum necessary information for FDA to review and process a user fee payment refund. The information collected includes the organization, contact, and payment information. The information is used to determine the reason for the refund, the refund amount, and who to contact if there are any questions regarding the refund request. A submission of the User Fee Payment Refund Request form does not guarantee that a refund will be issued. FDA estimates an average of 0.40 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The estimated hours are based on past FDA experience with user fee payment refund requests.

In fiscal year 2017, approximately 1,657 user fee refunds were processed for cover sheets and invoices including 12 for Animal Drug User Fee Act, 2 for Animal Generic Drug User Fee Act, 13 for Biosimilar Drug User Fee Act, 68 for Export Certificate Program, 14 for Freedom of Information Act requests, 227 for Generic Drug User Fee Amendments, 1,021 for Medical Device User Fee Amendments, 227 for mammography inspection fees, 67 for Prescription Drug User Fee Act, and 6 for tobacco product fees.

Form FDA 3914, User Fee Payment Transfer Request, is designed to provide the minimum information necessary for FDA to review and process a user fee payment transfer request. The information collected includes payment and organization information. The information is used to determine the reason for the transfer, how the transfer should be performed, and who to contact if there are any questions regarding the transfer request. A submission of the User Fee Payment Transfer Request form does not guarantee that a transfer will be performed. FDA estimates an average of 0.25 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. FDA estimated hours are

based on past FDA experience with user fee payment transfer requests.

In fiscal year 2017, approximately 871 user fee payment transfers were processed for cover sheets and invoices including 8 for Animal Drug User Fee Act, 1 for Animal Generic Drug User Fee Act, 1 for Biosimilar Drug User Fee Act, 163 for Generic Drug User Fee Amendments, 692 for Medical Device User Fee Amendments, and 6 for Prescription Drug User Fee Act.

Respondents for the electronic request forms include domestic and foreign firms (including pharmaceutical, medical device, etc.). Specifically, refund request forms target respondents who submitted a duplicate payment or overpayment for a user fee cover sheet or invoice. Respondents may also include firms that withdrew an application or submission. Transfer request forms target respondents who submitted payment for a user fee cover sheet or invoice and need that payment to be reapplied to another cover sheet or invoice (transfer of funds).

The electronic user fee payment request forms will streamline the refund and transfer processes, facilitate processing, and improve the tracking of requests. The burden for this collection of information is the same for all customers (small and large organizations). The information being requested or required has been held to the absolute minimum required for the intended use of the data. Customers will be able to request a user fee payment refund and transfer online at *https://www.fda.gov/forindustry/userfees/default.htm.* This electronic submission is intended to reduce the burden for customers to submit user fee payment refund and transfer requests.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
User Fee Payment Refund Request—Form FDA 3913.	1,657	1	1,657	0.40 (24 minutes)	663
User Fee Payment Transfer Request—Form FDA 3914.	871	1	871	0.25 (15 minutes)	218
Total					881

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We have adjusted our burden estimate, which has resulted in a decrease to the currently approved burden. New information technology applications have more accurately calculated the number of registrants of drug facilities/food facilities/medical device facilities/medicated feed facilities, and we have therefore revised the number of respondents to the information collection.

Dated: May 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10329 Filed 5–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. FDA–2017–N–4951; FDA–2017–N–5569; FDA–2017–N–6145; FDA–2011–N–0275; FDA–2017–N–7012; and FDA–2017–N–6175]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at *https://www.reginfo.gov/public/do/PRAMain.* 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control number	Date approval expires
Medical Devices; Humanitarian Use Devices	0910–0332	3/31/2021
Medical Devices; Device Tracking	0910–0442	3/31/2021
Dispute Resolution Procedures for Science-Based Decisions on Products Regulated by the Center for Veterinary Medicine	0910–0566	3/31/2021
Certification to Accompany Drug, Biological Product, and Device Applications or Submissions (Form FDA 3674)	0910–0616	3/31/2021
Use of Public Human Genetic Variant Databases to Support Clinical Validity for Genetic and Genomic-Based In Vitro Diagnostics	0910–0850	3/31/2021

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB—Continued

Title of collection	OMB control number	Date approval expires
Food and Drug Administration Recall Regulations	0910–0249	4/30/2021

Dated: May 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10281 Filed 5–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1577]

Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on June 20, 2018, from 8 a.m. to 4:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. 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.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2018–N–1577. The docket will close on June 19, 2018. Submit either electronic or written comments on this public meeting by June 19, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 19, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of June 19, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 5, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–N–1577 for ''Pediatric Oncology Subcommittee of the Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the

docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Lauren D. Tesh, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *ODAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The particular matter for this meeting will be review and discussion of a list of molecular targets for which evidence and/or biologic rationale exist to determine their potential relevance to the growth or progression of one or more pediatric cancers and a list of those targets deemed unlikely to be associated with the growth or progression of pediatric tumors. These lists are expected to fulfill the statutory obligation of the Food and Drug Administration Reauthorization Act (FDARA) and provide some guidance to industry in planning for initial Pediatric Study Plan submissions for new drug and/or biologic products in development for cancer in accordance with the amended provisions of the Pediatric Research Equity Act. The committee will review and discuss considerations other than scientific relevance that FDA will include in decision making with respect to the need and timing of pediatric evaluation of specific new drug and biologic products. The committee will discuss possible criteria and mechanisms for the prioritization by sponsors and the clinical investigator community of select targeted new agents for pediatric evaluation especially in the setting of multiple same in class agents. Preliminary discussion will focus on approaches to coordination and collaboration for pediatric clinical investigations of new agents that might be pursued to efficiently accommodate international regulatory requirements and global pediatric product development. The open public hearing sessions are: Topic 1: Target List, Topic 2: FDARA Implementation, and Topic 3: Mechanisms to Assure Efficiency and to Enhance Global Coordination Through International Collaboration.

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 subcommittee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 5, 2018, will be provided to the subcommittee. Oral presentations from the public will be scheduled between approximately 10:25 a.m. and 10:45 a.m., 1:40 p.m. and 2 p.m., and 3:40 p.m. and 4:30 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 FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Lauren D. Tesh (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 9, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10337 Filed 5–14–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Findings of research misconduct have been made on the part of Gareth John, Ph.D., Professor, Department of Neurology, Icahn School of Medicine at Mount Sinai (ISMMS). Dr. John engaged in research misconduct in research supported by National Institute of Neurological Disorders and Stroke (NINDS), National Institutes of Health (NIH), grants R01 NS056074 and R01 NS062703. The administrative actions, including one (1) year of supervision, were implemented beginning on April 26, 2018, and are detailed below.

FOR FURTHER INFORMATION CONTACT: Wanda K. Jones, Dr.P.H., Interim Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Gareth John, Ph.D., Icahn School of Medicine at Mount Sinai: Based on Respondent's admission, the report of an inquiry and investigation conducted by ISMMS, and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Gareth John, Professor, Department of Neurology, ISMMS, engaged in research misconduct in research supported by NINDS, NIH, grants R01 NS056074 and R01 NS062703.

ORI found that Respondent engaged in research misconduct by knowingly and intentionally falsifying data reported in *Development* 141(12):2414–28, 2014 Jun (hereafter referred to as ''*Development* 2014'').

In addition to making an admission, Respondent cooperated fully with ISMMS and ORI and has expressed remorse for his actions.

Specifically, ORI found that Respondent:

• used the p-GSK3α/β double bands in Figure S3B of *Development* 2014, removed the lower set of bands, reordered the remaining bands and used those bands to represent the actin control in an experiment comparing the impact of Tgfβ1 and ActB individually and in combination in primary oligodendrocyte progenitors (OLPs) and the oligodendrocyte-derived Oli-Neu cell line.

• used the densitometry readings from the falsified actin bands in Figure S3B of *Development* 2014 to compare the density of A+T, Tgfβ1, ActB, and Veh relative to the false actin signal in Figure S3C–J, creating eight false graphs.

• falsified the bands representing Myelin basic protein (Mbp) in Figure 3C of *Development* 2014 by cutting and pasting the bands onto a blank background and used those false bands to create a graph showing the density of Mbp in the presence and absence of ActB, Tgfβ1, and Bmp4.

As a result of this admission, Respondent has notified *Development* that corrections to figures in the paper, but not to the text, including the conclusions in *Development* 2014 are required.

Dr. John entered into a Voluntary Settlement Agreement and voluntarily agreed, beginning on April 26, 2018:

(1) To have his research supervised for a period of one (1) year; Respondent agreed that prior to submission of an application for U.S. Public Health Service (PHS) support for a research project on which the Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to ensure the scientific integrity of Respondent's research contribution; Respondent agreed that he shall not participate in any PHS-supported research until such a supervision plan is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that for one (1) year, any institution employing him shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract;

(3) if no supervisory plan is provided to ORI, to provide certification to ORI at the conclusion of the supervision period that he has not engaged in, applied for, or had his name included on any application, proposal, or other request for PHS funds without prior notification to ORI;

(4) to exclude himself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of one (1) year; and

(5) to follow up with the journal editor regarding his previous request to correct the following paper to ensure that the corrections are made:

• *Development* 141(12):2414–28, 2014 Jun.

Wanda K. Jones,

Interim Director, Office of Research Integrity.

[FR Doc. 2018–10310 Filed 5–14–18; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of Microbiology, Infectious Diseases and AIDS Initial Review Group Microbiology and Infectious Diseases Research Committee.

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: Microbiology, Infectious Diseases and AIDS Initial Review Group Microbiology and Infectious Diseases Research Committee.

Date: June 7–8, 2018.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room #3E72A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9834, Bethesda, MD 20892934, (240) 669–5023, *fdesilva@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10316 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; P41 BTRC Review (2018/10).

Date: July 5–7, 2018.

Time: 6:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Courtyard by Marriott New York Manhattan/Upper ES, 410 East 92nd Street, New York, NY 10128.

Contact Person: Manana Sukhareva, Ph.D., Scientific Review Officer, National Institute

of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Boulevard, suite 959, Bethesda, MD 20892, (303) 451–3397, *sukharem@mail.nih.gov.*

Dated: May 9, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10235 Filed 5–14–18; 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 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 General Medical Sciences Special Emphasis Panel; Review of Centers of Biomedical Research Excellence (COBRE) (P20) Applications.

Date: July 10–11, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Suites Rockville, 1 Helen Heneghan Way, Rockville, MD 20850.

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–6200, 301–402–9448, *shinako.takada@nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Review of Centers of Biomedical Research Excellence (COBRE) (P20) Applications.

Date: July 12–13, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–6200, 301–594–3663, *sidorova@nigms.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 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10354 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. The meeting is open to the public and registration is requested for both attendance and oral comment and required to access the webcast. Information about the meeting and registration are available at *http://ntp.niehs.nih.gov/go/165.*

DATES: *Meeting:* June 20, 2018; Begins at 8:30 a.m. (EDT) and continues until adjournment.

Written Public Comment Submissions: Deadline is June 12, 2018.

Oral Comments: Deadline is June 12, 2018.

Registration for Meeting: Deadline June 20, 2018.

Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting web page: The preliminary agenda, registration, and other meeting materials are at *http://ntp.niehs.nih.gov/go/165.*

Webcast: The meeting will be webcast; the URL will be provided to those who register for viewing.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Wolfe, Designated Federal Official for the BSC, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2–03, Research Triangle Park, NC 27709. Phone: 984–287–3209, Fax: 301–451–5759, Email: *wolfe@niehs.nih.gov.* Hand Deliver/Courier address: 530 Davis Drive, Room K2130, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Meeting and Registration: The meeting is open to the public with time scheduled for oral public comments; attendance at the meeting is limited only by the space available. The BSC will provide input to the NTP on programmatic activities and issues. Preliminary agenda topics include discussions on strategic realignment of NTP and updates on peer reviews. Please see the preliminary agenda for information about the specific presentations. The preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting website (*http://ntp.niehs.nih.gov/go/165*) or may be requested in hardcopy from the Designated Federal Official for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting website.

The public may attend the meeting in person or view the webcast. Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Individuals who plan to provide oral comments (see below) are encouraged to register online at the BSC meeting website (*http://ntp.niehs.nih.gov/go/165*) by June 12, 2018, to facilitate planning for the meeting. Individuals are encouraged to access the website to stay abreast of the most current information regarding the meeting. Visitor and security information for those attending in-person is available at *niehs.nih.gov/about/visiting/index.cfm.* Individuals with disabilities who need accommodation to participate in this event should contact Ms. Robbin Guy at phone: (984) 287–3136 or email: *guyr2@niehs.nih.gov.* TTY users should contact the Federal TTY Relay Service at 800–877–8339. Requests should be made at least five business days in advance of the event.

Written Public Comments: NTP invites written and oral public

comments on the agenda topics. Guidelines for public comments are available at *https://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf*.

The deadline for submission of written comments is June 12, 2018. Written public comments should be submitted through the meeting website. Persons submitting written comments should include name, affiliation, mailing address, phone, email, and sponsoring organization (if any). Written comments received in response to this notice will be posted on the NTP website, and the submitter will be identified by name, affiliation, and sponsoring organization (if any).

Oral Public Comment Registration: The agenda allows for three public comment periods: The first comment period on the strategic realignment (6 commenters, up to 5 minutes per speaker); the second comment period on the peer review of NTP's studies of cell phone radiofrequency radiation (6 commenters, up to 5 minutes per speaker); and the third comment period on the CLARITY–BPA Research Program: Peer Review of Core Study and Next Steps (6 commenters, up to 5 minutes per speaker). Oral comments may be presented in person at NIEHS or by teleconference line. Registration for oral comments is on or before June 12, 2018, at *http://ntp.niehs.nih.gov/go/165*. Registration is on a first-come, first-served basis, and registrants will be assigned a number in their confirmation email. Each organization is allowed one time slot per comment period. After the maximum number of speakers per comment period is exceeded, individuals registered to provide oral comment will be placed on a wait list and notified should an opening become available. Commenters will be notified after June 12, 2018, about the actual time allotted per speaker, and the teleconference number will be sent to those registered to give oral comments by teleconference line.

If possible, oral public commenters should send a copy of their slides and/or statement or talking points to Robbin Guy by email: *guyr2@niehs.nih.gov* by June 12, 2018.

Meeting Materials: The preliminary meeting agenda is available on the meeting web page (*http://ntp.niehs.nih.gov/go/165*) and will be updated one week before the meeting. Individuals are encouraged to access the meeting web page to stay abreast of the most current information regarding the meeting.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology, neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets biannually. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended.

The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: May 9, 2018.

Brian R. Berridge,

Associate Director, National Toxicology Program.

[FR Doc. 2018–10359 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, June 11, 2018, 01:00 p.m. to June 11, 2018, 03:00 p.m., National Cancer Institute Shady Grove, 9609 Medical Center Drive, 7W618, Rockville, MD 20850 which was published in the **Federal Register** on May 04, 2018, 83 FR 19789.

This meeting notice is amended to change the meeting date from June 11, 2018 to June 13, 2018. The meeting time has changed from 1:00 p.m.–3:00 p.m. to 10:30 a.m.–12:30 p.m. The meeting is closed to the public.

Dated: May 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10352 Filed 5–14–18; 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; NIGMS Postdoctoral T32 Training Grant Applications.

Date: July 10, 2018.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, Room 3AN18, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikebr@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 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10355 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Use of the CD47 Phosphorodiamidate Morpholino Oligomers for the Treatment, Prevention, and Diagnosis of Hematological Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to Morphiex Biotherapeutics (''Morphiex'') located in Boston, MA.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before May 30, 2018 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Jaime M. Greene, Senior Licensing and Patenting Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530 MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702 Telephone: (240) 276–5530; Facsimile: (240)–276–5504 Email: *greenejaime@mail.nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. U.S. Provisional Patent Application No. 60/850,132, filed October 6, 2006, now abandoned (HHS Ref. No. E–227–2006/0–US–01);
2. U.S. Provisional Patent Application No. 60/864,153, filed November 02, 2006, now abandoned (HHS Ref. No. E–227–2006/1–US–01);
3. U.S. Provisional Patent Application No. 60/888,754, filed February 07, 2007, now abandoned (HHS Ref. No. E–227–2006/2–US–01);
4. U.S. Provisional Patent Application No. 60/910,549, filed April 06, 2007, now abandoned (HHS Ref. No. E–227–2006/3–US–01);
5. U.S. Provisional Patent Application No. 60/956,375, filed August 16, 2007, now abandoned (HHS Ref. No. E–227–2006/4–US–01);
6. PCT Patent Application No. PCT/2007/080647, filed October 5, 2007, now abandoned (HHS Ref. No. E–227–2006/5–PCT–01);
7. U.S. Patent No. 8,236,313, filed April 3, 2009, Issued August 7, 2012 (HHS Ref. No. E–227–2006/5–US–02);
8. Canadian Patent Application No. 2,665,287, October 5, 2007 (HHS Ref. No. E–227–2006/5–CA–03);
9. Australian Patent No. 2007319576, filed October 5, 2007, Issued May 1, 2014 (HHS Ref. No. E–227–2006/5–AU–04);
10. European Patent Application No. 07868382.8, filed March 27, 2009 (HHS Ref. No. E–227–2006/5–EP–05);
11. U.S. Patent Application No. 13/546,931, filed July 11, 2012 (HHS Ref. No. E–227–2006/5–US–06);
12. U.S. Patent Number 8,557,788, filed July 11, 2012, Issued October 15, 2013 (HHS Ref. No. E–227–2006/5–US–07);
13. European Patent Application No. 13180563.2, filed October 5, 2007 (HHS Ref. No. E–227–2006/5–EP–08);
14. Australian Patent No. 2014201936, filed October 5, 2007, Issued October 20, 2016 (HHS Ref. No. E–227–2006/5–AU–09);
15. U.S. Patent Application No. 14/500,861, filed September 29, 2014 (HHS Ref. No. E–227–2006/5–US–10);
16. Australian Patent No. 2016238894, filed October 6, 2016, Issued February 22, 2018 (HHS Ref. No. E–227–2006/5–AU–11);
17. Australian Patent Application No. 2018200921, filed February 8, 2018 (HHS Ref. No. E–227–2006/5–AU–12).

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to ''the use of the CD47 phosphorodiamidate morpholino oligomers (PMO, morpholino, Sequence: 5′-CGTCACAGGCAGGACCCACTGCCCA-3′) for the treatment, prevention, and diagnosis of hematological cancers (*e.g.* lymphoma, leukemia, multiple myeloma), excluding uses in combination with radiotherapy.''

This technology concerns CD47, originally named integrin-associated protein, which is a receptor for thrombospondin-1(TSP–1), a major component of platelet α-granules from which it is secreted on platelet activation. A number of important roles for CD47 have been defined in regulating the migration, proliferation, and survival of vascular cells, and in regulation of innate and adaptive immunity. Nitric Oxide (NO) plays an important role as a major intrinsic vasodilator, and increases blood flow to tissues and organs. Disruption of this process leads to peripheral vascular disease, ischemic heart disease, stroke, diabetes and many more significant diseases. The inventors have discovered that TSP1 blocks the beneficial effects of NO, and prevents it from dilating blood vessels and increasing blood flow to organs and tissues. Additionally, they discovered that this regulation requires TSP1 interaction with its cell receptor, CD47. These inventors have also found that blocking TSP1–CD47 interaction through the use of antisense morpholino oligonucleotides, peptides, or antibodies has several therapeutic benefits including the treatment of cancer.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: April 30, 2018.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2018–10238 Filed 5–14–18; 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 Support of Competitive Research (SCORE) Award Applications.

Date: July 12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Saraswathy Seetharam, Scientific Review Officer, Office Scientific Review, National Institute of General Medical Sciences, National Institutes Health, 45 Center Drive, Room 3AN12C, Bethesda, MD 20892, 301–594–2763, *seetharams@nigms.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 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10356 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Training Grants.

Date: June 8, 2018.

Time: 3:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: Jeannette L. Johnson, Ph.D., National Institutes on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7705, *johnsonj9@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10353 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational 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 Center for Advancing Translational Sciences Special Emphasis Panel; Tissue Chip Testing Center (TCTC) & Data Centers (DC).

Date: June 13, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara J. Nelson, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4874, *nelsonbj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 9, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10234 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; 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 Dental and Craniofacial Research Special Emphasis Panel; NIDCR DSR Member Conflict SEP.

Date: June 5, 2018.

Time: 12:30 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; NIDCR Clinical Research Grant Reviews.

Date: June 6, 2018.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Rm. 676, Bethesda, MD 20892–4878, 301–594–4861, *mooremar@nidcr.nih.gov*.

Name of Committee: NIDCR Special Grants Review Committee; NIDCR DSR Special Grants Review.

Date: June 21–22, 2018.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Warwick Allerton Chicago, 701 N Michigan Ave. Chicago, IL 60611.

Contact Person: Latarsha J. Carithers, Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, Bethesda, MD 20892, 301–594–4859, *latarsha.carithers@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10319 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Somatosensory and Pain Systems.

Date: June 5–6, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn & Suites Old Town, 625 First Street, Alexandria, VA 22314.

Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases 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: Deborah Hodge, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4207, MSC 7812, Bethesda, MD 20892, (301)435–1238, *hodged@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–212: Cognitive Neuroscience and Assessment of Cancer Treatment-Related Cognitive Impairment.

Date: June 8, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437–0911, *kramerkm@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.

Date: June 8, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Aging Systems and Geriatrics Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Inese Z Beitins, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7892, Bethesda, MD 20892, 301–435–1034, *beitinsi@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Drug Discovery and Molecular Pharmacology Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW, Washington, DC 20036.

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Hotel, 1150 22nd Street NW, Washington, DC 20037.

Contact Person: Sharon K Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Child Psychopathology and Developmental Disabilities Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Denver Downtown, 1400 Welton Street, Denver, CO 80202.

Contact Person: Jane A Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Risk and Disease Prevention Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel Seattle, 405 Olive Way, Seattle, WA 98101.

Contact Person: Stacey FitzSimmons, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, *fitzsimmonss@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Behavioral Medicine, Interventions and Outcomes Study Section.

Date: June 11–12, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW, Washington, DC 20001.

Contact Person: Lee S. Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3224, MSC 7808, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Vascular Cell and Molecular Biology Study Section.

Date: June 11–12, 2018.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PARs18–596 and 18–661: Research on Current Topics in Alzheimer's Disease and Its Related Dementias.

Date: June 11, 2018.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Cristina Backman, Ph.D., Scientific Review Officer, ETTN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5211, MSC 7846, Bethesda, MD 20892, 301–480–9069, *cbackman@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–18–105: Ancillary Studies to Identify Behavioral and/or Psychological Phenotypes Contributing to Obesity.

Date: June 11, 2018.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Mayflower Park Hotel, 405 Olive Way, Seattle, WA 98101.

Contact Person: Stacey FitzSimmons, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, 301–451–9956, *fitzsimmonss@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10314 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel; K Award—R13 Review Meeting (2018/10)

Date: June 25, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, Suite 920, 6707 Democracy Plaza, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John K. Hayes, Ph.D., Scientific Review Officer, 6707 Democracy Boulevard, Suite 959, Democracy Two, Bethesda, MD 20892, (301) 451–3398, *hayesj@mail.nih.gov*.

Dated: May 9, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10236 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DDK–B Conflicts.

Date: June 6–7, 2018.

Time: 8:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Clinical Trials.

Date: June 19, 2018.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Program Projects.

Date: June 21, 2018.

Time: 11:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, IDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–18–108: NIDDK Exploratory Clinical Trials for Small Business (R44 Clinical Trial Required).

Date: June 21, 2018.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Najma S. Begum, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7349, 6707 Democracy Boulevard,

Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 9, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10237 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 12, 2018.

Open: 8:30 a.m. to 12:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, Conference Room 6C6, 31 Center Drive, Bethesda, MD 20892.

Closed: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, Conference Room 6C6, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Melinda Nelson, Acting Director, National Institute of Arthritis and Musculoskeletal and Skin Diseases Grants Management Branch, 45 Center Drive, Natcher Building, Room 5A49, Bethesda, MD 20892, (301) 435–5278, *nelsonm@exchange.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10318 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Division of Intramural Research Board of Scientific Counselors.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research, Board of Scientific Counselors, NIAID.

Date: June 11–13, 2018.

Time: 8:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: NIH Rocky Mountain Laboratories Building A, Seminar Room, 903 S 4th Street, Hamilton, MT 59840.

Contact Person: Steven M. Holland, MD, Ph.D., Chief, Laboratory of Clinical Infectious Diseases, National Institutes of Health/NIAID, Hatfield Clinical Research Center, Bethesda, MD 20892–1684, 301–402–7684, *sholland@mail.nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10317 Filed 5–14–18; 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 (5 U.S.C. App.), 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: Healthcare Delivery and Methodologies Integrated Review Group; Dissemination and Implementation Research in Health Study Section.

Date: June 13–14, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

Contact Person: Yvonne Owens Ferguson, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–827–3689, *fergusonyo@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Microbial Vaccines.
Date: June 13, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.
Contact Person: Andrea Keane-Myers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, Bethesda, MD 20892, 301–435–1221, *andrea.keane-myers@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cardiovascular and Surgical Devices.
Date: June 14, 2018.
Time: 7:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Crystal City, 2399 Jefferson Davis Highway, Arlington, VA 22202.
Contact Person: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, 301–402–9607, *Jan.Li@nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.
Date: June 14, 2018.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.
Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.
Date: June 14, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.
Contact Person: Richard A. Currie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Electrical Signaling, Ion Transport, and Arrhythmias Study Section.
Date: June 14, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.
Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, 301–435–1850, *limc4@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Hypertension and Microcirculation Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Ai-Ping Zou, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9497, *zouai@mail.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.
Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Urologic and Urogynecologic Applications.
Date: June 14, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–827–5467, *ganesan.ramesh@nih.gov*.

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Clayton Plaza Hotel, 7730 Bonhomme Avenue, St. Louis, MO 63105.
Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Virginian Suites, 1500 Arlington Boulevard, Arlington, VA 22209.
Contact Person: Baljit S. Moonga, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7806, Bethesda, MD 20892, 301–435–1777, *moongabs@mail.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Auditory System Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Marriott Georgetown, 1221 22nd St. NW, Washington, DC 20037.
Contact Person: Ying-Yee Kong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5185, Bethesda, MD 20892, *ying-yee.kong@nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Cellular and Molecular Biology of Glia Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront, 71 E Wacker, Chicago, IL 60601.
Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Garden Inn Washington DC/Georgetown area, 2201 M Street NW, Washington, DC 20037.
Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Cellular Signaling and Regulatory Systems Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.
Contact Person: David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Pathologies Study Section.
Date: June 14–15, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chicago Downtown, 600 N State Street, Chicago, IL 60654.

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypertension and Microcirculation.

Date: June 14, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, 301–435–0912, *Katherine_Malinda@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.

Date: June 14–15, 2018.

Time: 8:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Torrance Marriott Redondo Beach, 3635 Fashion Way, Torrance, CA 90503.

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Biomarkers Study Section.

Date: June 14–15, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt at Olive 8, 1635 8th Avenue, Seattle, WA 98101.

Contact Person: Lawrence Ka-Yun Ng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6152, MSC 7804, Bethesda, MD 20892, 301–357–9318, *ngkl@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: June 14–15, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative Physiology of Obesity and Diabetes Study Section.

Date: June 14–15, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Contact Person: Raul Rojas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, Bethesda, MD 20892, (301) 451–6319, *rojasr@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.

Date: June 14–15, 2018.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301–435–2902, *filpuladr@mail.nih.gov*.

(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 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10315 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute Amended: Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, May 31, 2018, 08:00 p.m. to June 01, 2018, 12:00 p.m., Canopy Washington DC Bethesda North, 940 Rose Avenue, North Bethesda, MD 20852 which was published in the **Federal Register** on May 04, 2018, 83 FR 19789.

This meeting notice is amended to change the meeting start time from 8:00 p.m. to 8:00 a.m. on May 31, 2018. The meeting is closed to the public.

Dated: May 10, 2018.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10351 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of 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: Neurological Sciences Training Initial Review Group; NST–1 Subcommittee.

Date: June 4–5, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Edgewater Hotel, 2411 Alaskan Way, Pier 67, Seattle, WA 98121.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–0660, *benzingw@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; K Mechanism Member Conflict Meeting.

Date: June 4, 2018.

Time: 6:00 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Edgewater Hotel, 2411 Alaskan Way, Pier 67, Seattle, WA 98121.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, (301) 496–0660, *benzingw@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BPN Review Meeting.

Date: June 6, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW, Washington, DC 20036.

Contact Person: Joel A. Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3205, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Joel.saydoff@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; CREATE Device Review.
Date: June 11, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: St. Gregory Hotel, 2033 M Street NW, Washington, DC 20036.
Contact Person: Joel A. Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3205, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Joel.saydoff@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN U24 and NINDS R24 Review.
Date: June 18, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Jimok Kim, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3226, MSC 9529, Bethesda, MD 20892–9529, (301) 496–9223, *Jimok.kim@nih.gov*.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–2 Subcommittee.
Date: June 21–22, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.
Contact Person: Elizabeth A. Webber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 496–1917, *Elizabeth.Webber@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke; Neurological Sciences and Disorders A.
Date: June 21–22, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites Chicago Downtown, 600 N State Street, Chicago, IL 60654.
Contact Person: Natalia Strunnikova, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 402–0288, *natalia.strunnikova@nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke; Neurological Sciences and Disorders B.
Date: June 28, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westgate Hotel, 1055 Second Street, San Diego, CA 92101.
Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3202, MSC 9529, Bethesda, MD 20892–9529, (301) 496–3562, *neuhuber@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke; Neurological Sciences and Disorders K.
Date: June 28–29, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront, 71 East Wacker Drive, Chicago, IL 60601.
Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, (301) 435–6033, *rajarams@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: May 10, 2018.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10320 Filed 5–14–18; 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: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Mechanisms of Sensory, Perceptual, and Cognitive Processes Study Section.
Date: June 12–13, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.
Date: June 12–13, 2018.
Time: 8:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, 7400 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.
Date: June 12–13, 2018.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Mark Caprara, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7844, Bethesda, MD 20892, 301–613–5228, *capraramg@mail.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.
Date: June 12–13, 2018.
Time: 8:00 a.m. to 8:00 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: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, 301–437–7872, *cowleshw@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.
Date: June 12, 2018.
Time: 8:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.
Contact Person: Charles Selden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187 MSC 7840, Bethesda, MD 20892, 301–451–3388, *seldens@mail.nih.gov*.

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Cellular and Molecular Technologies Study Section.
Date: June 12–13, 2018.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.

Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Learning, Memory, Language, Communication and Related Neurosciences.

Date: June 12, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1730, *susan.gillmor@nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neurogenesis and Cell Fate Study Section.

Date: June 12, 2018.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.

Contact Person: Joanne T. Fujii, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7850, Bethesda, MD 20892, (301) 435–1178, *fujiij@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–161: Clinical Pilot Studies in Kidney Diseases.

Date: June 12, 2018.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–17–025: Transformative Technology Development for the Human Biomolecular Atlas Program (UG3/UH3).

Date: June 12, 2018.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Amy Kathleen Wernimont, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, Bethesda, MD 20892, 301–827–6427, *amy.wernimont@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–18–018: Stimulating Innovations in Intervention Research for Cancer Prevention and Control.

Date: June 12, 2018.

Time: 10:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites DC Convention Center, 900 10th Street NW, Washington, DC 20001.

Contact Person: Lee S. Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Language and Communication.

Date: June 12, 2018.

Time: 1:00 p.m. to 1:30 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: Andrea B. Kelly, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Child Psychopathology and Developmental Disabilities.

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, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, BBBP IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, 301–500–5829, *sechu@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR18–039 Outcome Measures for Use in Treatment Trials for Individuals with IDD.

Date: June 12, 2018.

Time: 2:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Denver Downtown, 1400 Welton Street, Denver, CO 80202.

Contact Person: Jane A. Doussard-Roosevelt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 9, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10233 Filed 5–14–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2018–0135]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0068

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 an extension of its approval for the following collection of information: 1625–0068, State Access to the Oil Spill Liability Trust Fund for removal costs under the Oil Pollution Act of 1990; 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 14, 2018.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2018–0135] 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–2018–0135], and must be received by June 14, 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: 1625–0068.

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 9012, 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: State Access to the Oil Spill Liability Trust Fund for removal costs under the Oil Pollution Act of 1990.

OMB Control Number: 1625–0068.

Summary: This information collection is the mechanism for a Governor, or their designated representative, of a state to make a request for payment from the Oil Spill Liability Trust Fund (OSLTF) in an amount not to exceed $250,000 for removal cost consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of discharge, of oil.

Need: This information collection is required by, 33 CFR part 133, for implementing 33 U.S.C. 2712 (d) (1) of the Oil Pollution Act of 1990 (OPA 90). The information provided by the state to the NPFC is used to determine whether expenditures submitted by the state to the OSLTF are compensable, and, where compensable, to ensure the correct amount of reimbursement is made by the OSLTF to the state. If the information is not collected, the Coast Guard and the National Pollution Funds Center will be unable to justify the resulting expenditures, and thus be unable to recover costs from the parties responsible for the spill when they can be identified.

Forms: None.

Respondents: Governor of a state or their designated representative.

Frequency: On occasion.

Hour Burden Estimate: The estimated annual burden remains 3 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended.

Dated: May 8, 2018.

James D. Roppel,

Acting Chief, U.S. Coast Guard, Office of Information Management.

[FR Doc. 2018–10244 Filed 5–14–18; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2018–N016; FF08ESMF00–FXES11140800000–189]

Habitat Conservation Plan for South Sacramento County, California; Final Joint Environmental Impact Statement/Environmental Impact Report

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a final Environmental Impact Report/Environmental Impact Statement (EIS/EIR) that evaluates the effects of issuing a 50-year incidental take permit (ITP or Permit) under the Endangered Species Act of 1973, as amended, for 28 species covered under the final South Sacramento Habitat Conservation Plan (SSHCP, or Plan). The final EIS/EIR and the final SSHCP documents reflect changes resulting from comments received during a 90-day public review of the draft EIS/EIR and the draft SSHCP. This notice provides an opportunity for the public to review the responses to comments and review the final documents.

DATES: A Record of Decision on the ITP application will be signed no sooner than 30 days after the Environmental Protection Agency's notice in the **Federal Register** announcing receipt of this final EIS/EIR. We will accept written comments on the final EIS/EIR or the final SSHCP documents that are received or postmarked on or before June 14, 2018.

ADDRESSES: You may obtain the final documents by one of the following methods:

- *Internet:* You may download electronic copies of the final EIS/EIR and the final HCP document from the SSHCP website at *http://www.southsachcp.com,* or from the Sacramento County Project Viewer website at *https://planningdocuments.saccounty.net/*

ViewProjectDetails.aspx?ControlNum=2003-0637.

• *U.S. Mail:* CD–ROMs of the final EIR/EIS and the final SSHCP are available, by request, from the County Environmental Coordinator, at the County of Sacramento, Office of Planning and Environmental Review, 827 7th Street, Room 225, Sacramento, CA 95814; or by email at *SSHCP@saccounty.net;* or by phone at (916) 874–6141. Please note that your request is in reference to the SSHCP.

• *In-Person:* Hardbound copies of the final EIR/EIS and the final SSHCP documents are also available for public inspection and review at the following locations, during normal business hours:

○ Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento CA 95825.

○ County of Sacramento, 827 7th Street, Room 225, Sacramento, CA 95814.

○ Sacramento Public Library, Central Library, 828 I Street, Sacramento, CA 95814.

You may submit written comments on the final documents by one of the following methods:

• *Electronically:* Submit via email to: *SSHCP@saccounty.net,* and include ''Final SSHCP'' in the subject line,

• *By hard copy:* (1) Submit by U.S. mail to: County Environmental Coordinator, at the County of Sacramento address above, or call (916) 874–6141 to make an appointment during regular business hours to drop off written comments at that location; or (2) submit by U.S. mail to Jan C. Knight, Deputy Field Supervisor, at the Sacramento Fish and Wildlife Office address above, or by facsimile to (916) 414–6714, or call (916) 414–6700 to make an appointment during regular business hours to drop off written comments at that location.

FOR FURTHER INFORMATION CONTACT: (1) Contact Nina Bicknese, Endangered Species Division, or Jan C. Knight, Deputy Field Supervisor, at the Sacramento Fish and Wildlife Office address shown above, or at (916) 414–6700 (telephone) for information on the SSHCP EIS/EIR. If you use a telecommunications device for the deaf, please call the Federal Relay Service at (800) 877–8339, or (2) contact Marianne Biner, Senior Planner, at the County of Sacramento address shown above, or at (916) 874–6141 for information on the final SSHCP EIS/EIR.; or (3) Kim Hudson, Senior Planner, at the County of Sacramento address shown above, or at (916) 874–5849 for information on the final SSHCP and associated documents.

SUPPLEMENTARY INFORMATION: This notice announces the availability of the final SSHCP, prepared by the Permit Applicants in compliance with section 10(c) of the Endangered Species Act of 1973 (16 U.S.C. 1531–1544; ESA). This notice also announces the availability of the final EIS/EIR for the SSHCP (final EIS/EIR or final SSHCP EIS/EIR), prepared pursuant to the National Environmental Policy Act of 1970 as amended (42 U.S.C. 4321 *et seq.;* NEPA) and its implementing regulations (40 CFR 1500–1508), and also prepared pursuant to the California Environmental Quality Act (CEQA). We have prepared a joint EIS/EIR due to the combined local, State, and Federal discretionary actions and permits that are associated with the SSHCP. The co-lead agencies for the final SSHCP EIS/EIR are Sacramento County, pursuant to CEQA, and the Service, pursuant to NEPA. The cooperating agencies for the EIS/EIR are the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and the California Department of Fish and Wildlife. With this notice, we continue the NEPA process, which included a notice in the **Federal Register** on June 2, 2017 (82 FR 25612), in which we announced the availability of the draft EIS/EIR and the draft SSHCP for public comment.

Background

Under section 10(a)(1)(B) of the ESA, the Service may issue permits to authorize ''incidental take'' of listed animal species, which the ESA defines as take that is incidental to, and not the purpose of, the carrying out of otherwise lawful activities. Take of listed fish and wildlife is defined under the ESA as to ''harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct'' (16 U.S.C. 1538). Harm includes significant habitat modification or degradation that results in death or injury to listed wildlife species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering (50 CFR 17.3).

In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife or plants. Although take of listed plant species is not prohibited under the ESA, plant species may be included on an incidental take permit in recognition of the conservation benefits provided to them by a habitat conservation plan. All species included on an incidental take permit would receive assurances under the Service's ''No Surprises'' regulation [50 CFR 17.22(b)(5) and 17.32(b)(5)]. For more about the Federal HCP program, go to *https://www.fws.gov/endangered/what-we-do/hcp-overview.html.* Regulations governing incidental take permits for threatened and endangered species are at 50 CFR 17.32 and 17.22, respectively.

We propose to issue a 50-year permit for the incidental take of 28 covered species caused by future urban development, transportation, and infrastructure projects described in the General Plans of Sacramento County, the City of Rancho Cordova, and City of Galt, and would be permitted or authorized by the County of Sacramento, the City of Galt, the City of Rancho Cordova, the Sacramento County Water Agency, or the Capital SouthEast Connector Joint Powers Authority (together, the Permit Applicants. The Permit Applicants are also forming a Joint Powers Authority (JPA) to be named the South Sacramento Conservation Agency, which would implement the SSHCP after it is approved and permitted. Following the formation of the South Sacramento Conservation Agency JPA, we anticipate that the Permit Applicants will submit an application to the Service to add the JPA to the incidental take permit.

The proposed SSHCP is a regional strategy that would assure the permanent conservation of 28 covered species and their habitats within a 317,656-acre Plan Area, and would provide a comprehensive approach to the protection and long-term management of the relatively undisturbed vernal pool ecosystems that remain in the Plan Area. The SSHCP covered species include the federally endangered vernal pool tadpole shrimp (*Lepidurus packardi*), the threatened vernal pool fairy shrimp (*Branchinecta lynchi*), the threatened Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), the threatened California tiger salamander (*Ambystoma californiense*), the threatened giant garter snake (*Thamnophis gigas*), the endangered Sacramento Orcutt grass (*Orcuttia viscida*), the threatened slender Orcutt grass (*Orcuttia tenuis*), as well as 21 unlisted species that have potential to become listed during the proposed permit term. Incidental take authorization for an unlisted SSHCP covered species would become effective concurrent with its listing under the ESA, should listing occur during the permit term.

The proposed SSHCP would also provide a more streamlined and a more predictable process for Federal and State permitting of urban development and infrastructure covered activities within the SSHCP Plan Area. All SSHCP

covered activities would incorporate measures that avoid or minimize the impacts of the incidental take to the maximum extent practicable. In total, the proposed SSHCP covered activities could result in the development and unavoidable loss of up to 33,639 acres of natural landcovers and species habitat present within the Plan Area. These losses would be mitigated by implementation of the SSHCP conservation strategy, which includes the establishment of a minimum 34,494-acre interconnected preserve system in south Sacramento County, and the re-establishment or establishment of at least 1,787 acres of aquatic habitat, to provide a total SSHCP Preserve System of 36,281 acres. The entire SSHCP Preserve System would be preserved, monitored, and managed in perpetuity for the benefit of the covered species and their natural habitats. The issuance of the ITP is conditioned on the final SSHCP meeting all criteria in section 10(a)(2)(B) of the ESA.

National Environmental Policy Act Compliance

We published an initial notice of intent (NOI) to prepare a draft SSHCP EIS/EIR in the **Federal Register** on Wednesday, June 10, 2008 (73 FR 32729), published a revised NOI on November 4, 2013 (78 FR 66058), and we published the notice of availability (NOA) of the draft SSHCP EIS/EIR on June 2, 2017 (82 FR 25612), which included a 90-day public comment period.

The final SSHCP EIS/EIR studies three alternatives: The *No Action Alternative,* the *Proposed Action Alternative,* and the *Reduced Permit Term Alternative.* The Service has identified the *Proposed Action Alternative* as the preferred alternative. We received 26 comment letters on the draft EIS/EIR and the draft SSHCP. A response to each comment received in these letters has been included in the final EIS/EIR document. Minor revisions to the final EIS/EIR or to the final SSHCP have been made to address the comments received on the draft documents. The descriptions and analysis of the three SSHCP alternatives studied in the final EIS/EIR generally remain the same as presented in the draft EIS/EIR.

Public Review

Copies of the final EIS/EIR and the final SSHCP documents are available (see **ADDRESSES**) for a 30-day public review period (see **DATES**). If you wish to comment on the final documents, you may submit your comments to the address provided in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

We will evaluate the incidental take permit application, the associated documents, and any public comments submitted during the final EIS/EIR review period to determine whether the permit application meets all requirements of section 10(a) of the ESA. The Service will then prepare a concise public record of our decision (the Record of Decision). Our permit decision will be made no sooner than 30 days after the publication of the Environmental Protection Agency's notice of this final EIS/EIR in the **Federal Register**. After they are completed and signed, the Record of Decision and the incidental take permit will be available on our web page at *https://www.fws.gov/sacramento.*

Michael Long,

Acting Assistant Regional Director, U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2018–10306 Filed 5–14–18; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY–957000–18–L13100000–PP0000]

Filing of Plats of Survey, Nebraska and Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file plats of survey 30 calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming. The surveys, which were executed at the request of the Bureau of Indian Affairs, and the BLM, are necessary for the management of these lands.

DATES: Protests must be received by the BLM by June 14, 2018.

ADDRESSES: You may submit written protests to the Wyoming State Director at WY957, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Sonja Sparks, BLM Wyoming Acting Chief Cadastral Surveyor at 307–775–6225 or *s75spark@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact this office during normal business hours. The Service is available 24 hours a day, 7 days a week, to leave a message or question with this office. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lands surveyed are: The plat and field notes representing the dependent resurvey of portions of the west boundary of the Winnebago Indian Reservation, the subdivisional lines and the subdivision of section lines, and the survey of the subdivision of certain sections, Township 26 North, Range 5 East, Sixth Principal Meridian, Nebraska, Group No. 186, was accepted January 25, 2018.

The plat and field notes representing the dependent resurvey of portions of the east and north boundaries, portions of the subdivisional lines, and the survey of the subdivision of certain sections, Township 51 North, Range 66 West, Sixth Principal Meridian, Wyoming, Group No. 934, was accepted January 25, 2018.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 26, Township 18 North, Range 84 West, Sixth Principal Meridian, Wyoming, Group No. 965, was accepted January 25, 2018.

The plat and field notes representing the dependent resurvey of portions of the subdivisional lines and the survey of the subdivision of sections 23 and 27, Township 42 North, Range 83 West, Sixth Principal Meridian, Wyoming, Group No. 966, was accepted January 25, 2018.

The plat and field notes representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of Section 26, and the metes-and-bounds survey of Parcels A and B, section 26, Township 20 North, Range 94 West, Sixth Principal Meridian, Wyoming, Group No. 968, was accepted January 25, 2018.

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest within 30 calendar days from the date of this publication with the Wyoming State Director at the above address. Any notice of protest received after the scheduled date of official filing will be untimely and will

not be considered. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the State Director within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

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

Copies of the preceding described plats and field notes are available to the public at a cost of $4.20 per plat and $.13 per page of field notes.

Dated: May 9, 2018.

Sonja S. Sparks,

Acting Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 2018–10307 Filed 5–14–18; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–D–COS–POL–25012; PPWODIREP0] [PPMPSPD1Y.YM0000]

Request for Nominations for the 400 Years of African-American History Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior is requesting nominations for qualified persons to serve as members of the Commission.

DATES: Nominations must be received by June 14, 2018.

ADDRESSES: Nominations should be sent to Christine Lucero, U.S. Department of the Interior, National Park Service, P.O. Box 210, Yorktown, Virginia 23690; or email *christine_lucero@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Christine Lucero, U.S. Department of the Interior, National Park Service, P.O. Box 210, Yorktown, Virginia 23690, or via email at *christine_lucero@nps.gov,* or via telephone at (757) 856–1213.

SUPPLEMENTARY INFORMATION: The 400 Years of African-American History Commission was established by section 3 of Public Law 115–102. The purpose of the Commission is to develop and carry out activities throughout the United States to commemorate the 400th anniversary of the arrival of the first enslaved Africans to the English colonies at Point Comfort, Virginia, in 1619, at what is now Fort Monroe National Monument.

The Commission shall be composed of 15 members, of whom (A) 3 members shall be appointed by the Secretary after considering recommendations of Governors, including the Governor of Virginia; (B) 6 members shall be appointed by the Secretary after considering recommendations of civil rights organizations and historical organizations; (C) 1 member shall be an employee of the National Park Service having experience relative to the historical and cultural resources related to the commemoration, to be appointed by the Secretary; (D) 2 members shall be appointed by the Secretary after considering the recommendations of the Secretary of the Smithsonian Institution; and (E) 3 members shall be individuals who have an interest in, support for, and expertise appropriate to the commemoration, appointed by the Secretary after considering the recommendations of Members of Congress.

We are currently seeking members to represent all categories. The Commission will elect the chairperson. In addition to the primary members, alternates may be appointed to the Commission.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member. All documentation, including letters of recommendation, must be compiled and submitted in one complete package.

Members of the Commission will serve as special Government employees and be required on an annual basis to complete ethics training and file a Confidential Financial Disclosure Report. Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

Public Disclosure of Information: Before including your address, phone number, email address, or other personal identifying information with your nomination, you should be aware that your entire nomination—including your personal identifying information—may be made publicly available at any time. While you can ask us in your nomination to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: Public Law 115–102.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2018–10269 Filed 5–14–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the Bureau of Ocean Energy Management (BOEM) regulatory restrictions on joint bidding, the Director of the BOEM is publishing a List of Restricted Joint Bidders. Each entity within one of the following groups is restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period May 1, 2018, through October 31, 2018.

DATES: This List of Restricted Joint Bidders will cover the period May 1, 2018, through October 31, 2018, and replace the prior list published on November 14, 2017 (82 FR 52743), which covered the period of November 1, 2017, through April 30, 2018.

Group I
- BP America Production Company
- BP Exploration & Production Inc.
- BP Exploration (Alaska) Inc.

Group II
- Chevron Corporation
- Chevron U.S.A. Inc.
- Chevron Midcontinent, L.P.
- Unocal Corporation
- Union Oil Company of California

Pure Partners, L.P.
Group III
Eni Petroleum Co. Inc.
Eni Petroleum US LLC
Eni Oil US LLC
Eni Marketing Inc.
Eni BB Petroleum Inc.
Eni US Operating Co. Inc.
Eni BB Pipeline LLC
Group IV
Exxon Mobil Corporation
ExxonMobil Exploration Company
Group V
Petroleo Brasileiro S.A.
Petrobras America Inc.
Group VI
Shell Oil Company
Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
SOI Finance Inc.
Shell Gulf of Mexico Inc.
Group VII
Statoil ASA
Statoil Gulf of Mexico LLC
Statoil USA E&P Inc.
Statoil Gulf Properties Inc.
Group VIII
Total E&P USA, Inc.

Authority: 30 CFR 556.511–556.515.

Dated: May 8, 2018.

Walter D. Cruickshank,

Acting Director, Bureau of Ocean Energy Management.

[FR Doc. 2018–10250 Filed 5–14–18; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0059]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Grants to States and Tribes

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are proposing to renew an information collection for requirements for Grants to States and Tribes.

DATES: Interested persons are invited to submit comments on or before June 14, 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 1029–0059 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 12, 2018 (83 FR 6049). 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 parts 735, 885 and 886—Grants to States and Tribes.

OMB Control Number: 1029–0059.

Abstract: State and Tribal reclamation and regulatory authorities are requested to provide specific budget and program information as part of the grant application and reporting processes authorized by the Surface Mining Control and Reclamation Act.

Form Number: OSM–47, OSM–49 and OSM–51.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: State and Tribal reclamation and regulatory authorities.

Total Estimated Number of Annual Respondents: 27.

Total Estimated Number of Annual Responses: 171.

Estimated Completion Time per Response: Varies from 1 hour to 10 hours, depending upon activity.

Total Estimated Number of Annual Burden Hours: 741 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once and annually.

Total Estimated Annual Nonhour Burden Cost: None.

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. 2018–10277 Filed 5–14–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520; OMB Control Number 1029–0129]

Agency Information Collection Activities: Submission to the Office of Management and Budget for Review and Approval; Reclamation Awards

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 Excellence in Surface Coal Mining Reclamation Award and the Abandoned Mine Land Reclamation Awards. These awards have been established to give well-earned public recognition to those responsible for the nation's highest achievements in abandoned mine land reclamation, and who have developed innovative reclamation techniques or who have completed reclamation that resulted in outstanding on-the-ground performance.

DATES: Interested persons are invited to submit comments on or before June 14, 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 1029–0039 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 January 31, 2018 (83 FR 4514). 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: Reclamation Awards—Call for Nominations.

OMB Control Number: 1029–0129.

Abstract: This information collection clearance package is being submitted by the Office of Surface Mining Reclamation and Enforcement (OSMRE) for renewed approval to collect information for our annual call for nominations for our Excellence in Surface Coal Mining Reclamation Awards and Abandoned Mine Land Reclamation Awards. Since 1986, the Office of Surface Mining has presented awards to coal mine operators who completed exemplary active reclamation. A parallel award program for abandoned mine land reclamation began in 1992. The objective is to give public recognition to those responsible for the nation's most outstanding achievement in environmentally sound surface mining and land reclamation and to encourage the exchange and transfer of successful reclamation technology. This collection request seeks a three-year term of approval.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Industry and state/tribal nominees for reclamation awards and state/tribal reviewers and judges.

Total Estimated Number of Annual Respondents: 14 active mine respondents, 11 abandoned mine land state/tribal respondents, and 40 state and tribal reviewers and judges.

Total Estimated Number of Annual Responses: 65.

Estimated Completion Time per Response: An average of 17 hours per coal producer, 67 hours per State/Tribal nominee, and 2 hours to 8 hours per State/Tribe to judge responses.

Total Estimated Number of Annual Burden Hours: 1,211 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: $2,500.

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. 2018–10278 Filed 5–14–18; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1112]

Certain Radio Frequency Micro-Needle Dermatological Treatment Devices and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 9, 2018, under section 337 of the Tariff Act of 1930, as amended, on behalf of Syneron Medical Ltd. of Israel; Candela Corporation of Wayland, Massachusetts; and Massachusetts General Hospital of Boston, Massachusetts. A supplement was filed on April 27, 2018. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain radio frequency micro-needle dermatological treatment devices and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,510,899 (''the '899 patent'') and U.S. Patent No. 9,095,357 (''the '357 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, as supplemented, except for any confidential information contained therein, is 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, Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 9, 2018, *Ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain radio frequency micro-needle dermatological treatment devices and components thereof by reason of infringement of one or more of claims 1, 2, 4, 9–11, 15, 20, and 21 of the '899 patent and claims 1, 2, 4, 9–12, 17, and 18 of the '357 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Syneron Medical Ltd., Tavor Building, Industrial Zone, Yokneam lllit, 20692, Israel

Candela Corporation, 530 Boston Post Road, Wayland, MA 01778

General Hospital Corporation d/b/a, Massachusetts General Hospital, 55 Fruit Street, Boston, MA 02114

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Invasix, Inc., 21084 Bake Parkway, Suite 106, Lake Forest, CA 92618

Invasix, Ltd., Apolo Building, Shaar Yokneam, Yokneam, 20692, Israel

Inmode Md, Ltd., 20996 Bake Parkway, Suite 106, Lake Forest, CA 92630

Ilooda Co., Ltd., 37–1 Imok-dong, Imok-dong, Jangan-gu, Suwon-si, Gyeonggi-do, Republic of Korea

Cutera, Inc., 3240 Bayshore Boulevard, Brisbane, CA 94005

Emvera Technologies, LLC, 641 10th Street, Cedartown, GA 30125

Rohrer Aesthetics, LLC, 105 Citation Court, Homewood, AL 35209

Lutronic, Corp., Lutronic Center, 219 Sowon-ro, Deogyang-gu, Goyang-si, Geonggi-do, Republic of Korea

Lutronic, Inc., 19 Fortune Drive, Billerica, MA 01821

Endymed Medical Inc., 790 Madison Avenue, Suite 402, New York, NY 10065

Endymed Medical Ltd., 12 Leshem Street, North Industrial Park, Caesarea, 30889 Israel

Sung Hwan E&B Co., Ltd. d/b/a SHEnB Co., Ltd., 148 Seongsui-Ro, Soengdong-Gu, Seoul 04796, Republic of Korea

Aesthetics Biomedical, Inc., 4602 N 16th Street, Suite 300, Phoenix, AZ 85016

Cartessa Aesthetics, 210 Peoples Way, Hockessin, DE 19707–1904

Jeisys Medical, Inc., 307 Daeryung Techno Town 8th, Gamasan-ro 96, Geumcheon-Gu, Seoul, 153–775, Republic of Korea

Perigee Medical LLC, 2227 N Macarthur Dr., Tracy, CA 95376–2830

Lumenis Ltd., Yokneam Industrial Park, Hakidma 6, Yokneam 2069204, Israel

Pollogen Ltd., 6 Kaufman Yehezkel, Tel Aviv-Jaffa, 6801298, Israel

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 9, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–10240 Filed 5–14–18; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Patheon API Manufacturing, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before July 16, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or

revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on April 5, 2017, Patheon API Manufacturing, Inc., 309 Delaware Street, Building 1106, Greenville, South Carolina 29605 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Thebaine	9333	II
Noroxymorphone	9668	II

The company plans to manufacture the above-listed controlled substances as Active Pharmaceutical Ingredient (API) for supply to its customers.

Dated: May 1, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–10303 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Mylan Pharmaceuticals, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2018. Such persons may also file a written request for a hearing on the application on or before June 14, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 18, 2018, Mylan Pharmaceuticals, Inc., 3711 Collins Ferry Road, Morgantown, West Virginia 26505 applied to be registered as an importer of the following basic classes of controlled substances:

Amphetamine	1100	II
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Methadone	9250	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to import the listed controlled substances in finished dosage form (FDF) from foreign sources for analytical testing and clinical trials in which the foreign FDF will be compared to the company's own domestically-manufactured FDF.

This analysis is required to allow the company to export domestically-manufactured FDF to foreign markets.

Dated: April 25, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–10301 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Rhodes Technologies

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2018. Such persons may also file a written request for a hearing on the application on or before June 14, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007).

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 6, 2018, Rhodes Technologies, 498 Washington Street, Coventry, Rhode Island 02816 applied to be registered as an importer of the following basic classes of controlled substances:

Tetrahydrocannabinols	7370	I
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Hydrocodone	9193	II
Morphine	9300	II
Opium, raw	9600	II
Oxymorphone	9652	II
Poppy Straw Concentrate	9670	II

The company plans to import opium, raw (9600) and poppy straw concentrate (9670) in order to bulk manufacture controlled substances in Active Pharmaceutical Ingredient (API) form. The company distributes the manufactured APIs in bulk to its customers.

The company plans to import the other listed controlled substances for internal reference standards use only. The comparisons of foreign reference standards to the company's domestically manufactured API will allow the company to export domestically manufactured API to foreign markets.

Dated: April 25, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–10302 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[No. 18–12]

Donald Kenneth Shreves, D.V.M.; Dismissal of Proceeding

On October 31, 2017, the Acting Assistant Administrator, Diversion Control Division, issued an Order to Show Cause to Donald Kenneth Shreves, D.V.M. (Respondent), of Pottstown, Pennsylvania. The Show Cause Order proposed the revocation of Respondent's Certificate of Registration on the ground that he does ''not have authority to handle controlled substances in the State of Pennsylvania, the [S]tate in which [he is] registered with the'' Agency. Show Cause Order, at 1.

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent is registered ''as a practitioner in [s]chedules II–V under . . . registration number BS5342934,'' at the location of ''1361C Farmington Ave., Pottstown, Pennsylvania.'' *Id.* The Order further alleged that Respondent's registration was due to expire on February 28, 2018. *Id.*

As the substantive ground for the proceeding, the Show Cause Order alleged that on September 28, 2017, the Pennsylvania Board of Veterinary Medicine ''issued an Order of Temporary Suspension'' of his veterinary medicine license. *Id.* at 1–2. The Order alleged that as a consequence of the Board's action, Respondent is currently ''without to handle controlled substances in . . . Pennsylvania, the [S]tate in which'' he is registered, and therefore, his registration should be revoked. *Id.* at 2.

The Show Cause Order notified Respondent of his right to request a hearing or to submit a written statement while waiving his right to a hearing, the procedure for electing either option, and the consequence of failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The Order also notified Respondent of his right to submit a corrective action plan. *Id.* at 2–3 (citing 21 U.S.C. 824(c)(2)(C)).

On November 8, 2017, Respondent was personally served with the Show Cause Order, and on December 8, 2018, Respondent requested a hearing. Resp. Hrng. Req. at 1. The matter was placed on the docket of the Office of Administrative Law Judges and assigned to ALJ Charles Wm. Dorman, who, on December 11, 2017, issued an order setting the briefing schedule. *See* Briefing Schedule for Lack of State Authority Allegations, at 1.

On January 4, 2018, the Government submitted a Motion for Summary Disposition; as support for its motion, the Government attached a copy of the Board's Suspension Order and a Declaration of a DEA Task Force Office that Respondent's Veterinary License remained suspended as of January 2, 2017, when she queried the Board's website. Mot. for Summ. Disp., Attachments 3; 5; 6, at 2. On January 10, 2018, Respondent filed his reply and admitted that he was currently without authority to handle controlled substances in Pennsylvania. Resp.'s Reply to Govt. Mot. for Summ. Disp., at 1.

On January 11, 2018, the ALJ issued his Recommended Decision (R.D.). Therein, the ALJ found that there was no dispute over the material fact that Respondent lacks authority to dispense controlled substances in Pennsylvania. *Id.* at 5–6. The ALJ thus granted the Government's Motion for Summary Disposition and recommended that Respondent's registration be revoked. *Id.*

Neither party filed exceptions to the Recommended Decision. On February 6, 2018, the ALJ forwarded the record to my Office.

Having reviewed the record, I hold that this proceeding is now moot. The evidence in the record establishes that Respondent's registration was due to expire on February 28, 2018, and according to the Agency's registration record for Respondent of which I take official notice,[1] he has not submitted an application to renew his registration. Accordingly, I find that Respondent's registration expired on February 28, 2018 and that there is no application to act upon.

DEA has long held that '' 'if a registrant has not submitted a timely renewal application prior to the expiration date, then the registration expires and there is nothing to revoke.' '' *Donald Brooks Reece II, M.D.,* 77 FR 35054, 35055 (2012) (quoting *Ronald J. Riegel,* 63 FR 67312, 67133 (1998)); *see also Thomas E. Mitchell,* 76 FR 20032, 20033 (2011). ''Moreover, in the absence of an application (whether timely filed or not), there is nothing to act upon.'' *Reece,* 77 FR at 35055. Accordingly, because Respondent has allowed his registration to expire and did not file an application to renew his registration or for any other registration in Pennsylvania, this case is now moot and will be dismissed.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR 0.100(b), I order that the Order to Show Cause issued to Donald K. Shreves, D.V.M., be, and it hereby is, dismissed. This Order is effective immediately.

Dated: May 7, 2018.

Robert W. Patterson,

Acting Administrator.

[FR Doc. 2018–10305 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Registration

ACTION: Notice of registration.

SUMMARY: Registrants listed below have applied for and been granted registration by the Drug Enforcement Administration (DEA) as bulk manufacturers of various classes of schedule I and II controlled substances.

SUPPLEMENTARY INFORMATION: The companies listed below applied to be registered as bulk manufacturers of various basic classes of controlled substances. Information on previously published notices is listed in the table below. No comments or objections were submitted for these notices.

[1] Under the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Respondent is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Respondent the opportunity to refute the facts of which I take official notice, Respondent may file a motion for reconsideration within fifteen calendar days of service of this order which shall commence on the date this order is mailed.

Company	FR Docket	Published
Patheon Pharmaceuticals, Inc	83 FR 5274	February 6, 2018.
Chattem Chemicals, Inc	83 FR 5274	February 6, 2018.
INSYS Manufacturing LLC	83 FR 5810	February 9, 2018.
Siemens Healthcare Diagnostics Inc	83 FR 5812	February 9, 2018.
Cerilliant Corporation	83 FR 5809	February 9, 2018.
Noramco, Inc	83 FR 5808	February 9, 2018.
Johnson Matthey, Inc	83 FR 7221	February 20, 2018.

The DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of these registrants to manufacture the applicable basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated each of the company's maintenance of effective controls against diversion by inspecting and testing each company's physical security systems, verifying each company's compliance with state and local laws, and reviewing each company's background and history.

Therefore, pursuant to 21 U.S.C. 823(a), and in accordance with 21 CFR 1301.33, the DEA has granted a registration as a bulk manufacturer to the above listed companies.

Dated: May 7, 2018.

John J. Martin,

Assistant Administrator.

[FR Doc. 2018–10304 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Xcelience

ACTION: Notice of application.

DATES: Registered bulk importers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before June 14, 2018. Such persons may also file a written request for a hearing on the application on or before June 14, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All request for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417, (January 25, 2007)

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on April 11, 2018, Xcelience, 4901 West Grace Street, Tampa, FL 33607 applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Amphetamine ...	1100	II

The company plans to import the listed controlled substance in finished dosage form for clinical trials, research and analytical purposes.

The import of this class of controlled substance will be granted only for analytical testing, research and clinical trials. This authorization does not extend to the import of a finished FDA approved or non-approved dosage form for commercial sale.

Dated: April 25, 2018.

Susan A. Gibson,

Deputy Assistant Administrator.

[FR Doc. 2018–10300 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1110–0064]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension, Without Change, of a Currently Approved Collection; FBI Expungement Form (FD–1114)

AGENCY: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services (CJIS) Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until July 16, 2018.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Gerry Lynn Brovey, Supervisory Information Liaison Specialist, FBI, CJIS, Resources Management Section, Administrative Unit, Module C–2, 1000 Custer Hollow Road, Clarksburg, West Virginia, 26306 (facsimile: 304–625–5093) or email *glbrovey@ic.fbi.gov*. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503.

Additionally, comments may be submitted via email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* FBI Expungement Form.

(3) *Agency form number:* FD–1114.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: This form is utilized by criminal justice and affiliated judicial agencies to request appropriate removal of criminal history information from an individual's record.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 56 respondents are authorized to complete the form which would require approximately 10 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 36,106 total annual burden hours associated with this collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 10, 2018.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2018–10287 Filed 5–14–18; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities, Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the ''The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.'' 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: Written comments must be submitted to the office listed in the Addresses section of this notice on or before July 16, 2018.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by fax to 202–691–5111 (this is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Consumer Expenditure (CE) Surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions. The CE Surveys have been ongoing since 1979.

The data from the CE Surveys are used (1) for CPI revisions, (2) to provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation, and (3) to provide a flexible consumer survey vehicle that is available for use by other Federal government agencies. Public and private users of price statistics, including Congress and the economic policymaking agencies of the Executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policymakers widely accept the need to improve the process used for revising the CPI. If the CE Surveys were not conducted on a continuing basis, current information necessary for more timely, as well as more accurate, updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand from the public and private sectors for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample is interviewed every three months over four calendar quarters. The sample for each quarter is divided into three panels, with CUs being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures that respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

II. Current Action

Office of Management and Budget clearance is being sought for the proposed revision of the Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

As part of an ongoing effort to improve data quality, maintain or increase response rates, and reduce data collection costs, CE is seeking clearance to make the changes outlined below. In Interview (CEQ), several questions will be modified including collapsing the items codes for attachable campers and unattached campers into a single item code; regrouping the clothing sections for easier understanding by the respondent such as adding a swimwear category, regrouping items previously collected in the ''Swimwear, swim cover-ups, or swimwear accessories'' category, and renaming the outerwear section to ''Coats and Jackets''; replacing questions on prepaid long distance calling cards with a question on prepaid cellular cards; deleting the ''Miscellaneous expenses/souvenirs'' question in the trip section as this has led to duplicate reports. Additionally, an extended recall section will be added on the point of purchase of items for consumer units (CUs) based on 1) the PSU in which the consumer unit resides (population group) and 2) whether the item was not reported by the consumer unit in the current reference period. Only consumer units that did not report an expenditure for the item and reside in the PSU in which the extended recall section is being asked will receive these additional questions. In the Diary survey (CED) a question will be added on the veteran status of each member of the consumer unit who is 17 and over. Additionally the pick-up window, or the time an FR is allowed to pick up the completed Diary will be extended to 10 days from 7 days. Finally, an additional column will be added to the Diary form for the respondent to record the point of purchase for the expenditure the respondent has recorded.

A full list of the proposed changes to the Quarterly Interview Survey are available upon request.

III. Desired Focus of Comments

The Bureau of Labor Statistics 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.
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Title of Collection: The Consumer Expenditure Surveys: The Quarterly Interview and the Diary.

OMB Number: 1220–0050.

Type of Review: Revision, of a currently approved collection.

Affected Public: Individuals or Households.

TOTAL RESPONSE BURDEN FOR THE QUARTERLY INTERVIEW AND DIARY SURVEYS

	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden
Quarterly Interview Survey	5877	4.5413	26,689	62.7337	27,905
Diary Survey	5,478	4.2	23,008	43.3336	16,617
Totals	11,355		49,697		44,522

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 9th day of May 2018.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2018–10332 Filed 5–14–18; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0028]

MET Laboratories, Inc.: Grant of Expansion of Recognition and Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces its final decision to expand the scope of recognition for MET Laboratories, Inc., as a Nationally Recognized Testing Laboratory (NRTL). In addition, OSHA announces the addition of one test standard to the NRTL Program's List of Appropriate Test Standards.

DATES: The expansion of the scope of recognition becomes effective on May 15, 2018.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov*.

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor; telephone: (202) 693–2110; email: *robinson.kevin@dol.gov*. OSHA's web page includes information about the NRTL Program (see *http://www.osha.gov/dts/otpca/nrtl/index.html*).

SUPPLEMENTARY INFORMATION:

I. Notice of Final Decision

OSHA hereby gives notice of the expansion of the scope of recognition of MET Laboratories, Inc. (MET), as a NRTL. MET's expansion covers the addition of two test standards to its scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified by 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. As a result of recognition, employers may use products properly approved by the NRTL to meet OSHA standards that require testing and certification of the products.

The Agency processes applications by a NRTL for initial recognition, or for expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding and, in the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL that details its scope of recognition. These pages are available from the Agency's website at *http://www.osha.gov/dts/otpca/nrtl/index.html*.

MET submitted an application, dated July 27, 2016, (OSHA–2006–0028–0042) to expand its recognition to include two additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

OSHA published the preliminary notice announcing MET's expansion application in the **Federal Register** on February 21, 2018 (83 FR 7496). The Agency requested comments by March 8, 2018, but it received no comments in response to this notice. OSHA now is proceeding with this final notice to grant expansion of MET's scope of recognition.

To obtain or review copies of all public documents pertaining to MET's application, go to *http://www.regulations.gov* or contact the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3653, Washington, DC 20210. Docket No. OSHA–2006–0028 contains all materials in the record concerning MET's recognition.

II. Final Decision and Order

OSHA staff examined MET's expansion application, its capability to meet the requirements of the test standards, and other pertinent information. Based on its review of this evidence, OSHA finds that MET meets the requirements of 29 CFR 1910.7 for expansion of its recognition, subject to the specified limitation and conditions listed below. OSHA, therefore, is proceeding with this final notice to grant MET's scope of recognition. OSHA limits the expansion of MET's recognition to testing and certification of products for demonstration of conformance to the test standards listed, below in Table 1.

TABLE 1—LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN MET'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 60947–1	Standard for Low Voltage Switchgear and Controlgear—Part 1: General Rules.
UL 60947–4–1	Standard for Safety Low Voltage Switchgear and Controlgear—Part 4–1: Contactors and Motor-Starters—Electromechanical Contactors and Motor-Starters.

In this notice, OSHA also announces the addition of a new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard that is new to the NRTL Program. OSHA has determined that this test standard is an appropriate test standard and will include it in the NRTL Program's List of Appropriate Test Standards.

TABLE 2—TEST STANDARD OSHA IS ADDING TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 60947–4–1	Standard for Safety Low Voltage Switchgear and Controlgear—Part 4–1: Contactors and Motor-Starters—Electromechanical Contactors and Motor-Starters.

OSHA's recognition of any NRTL for a particular test standard is limited to equipment or materials for which OSHA standards require third-party testing and certification before using them in the workplace. Consequently, if a test standard also covers any products for which OSHA does not require such testing and certification, a NRTL's scope of recognition does not include these products.

The American National Standards Institute (ANSI) may approve the test standards listed above as American National Standards. However, for convenience, the use of the designation of the standards-developing organization for the standard as opposed to the ANSI designation may occur. Under the NRTL Program's policy (see OSHA Instruction CPL 1–0.3, Appendix C, paragraph XIV), any NRTL recognized for a particular test standard may use either the proprietary version of the test standard or the ANSI version of that standard. Contact ANSI to determine whether a test standard is currently ANSI-approved.

A. Conditions

In addition to those conditions already required by 29 CFR 1910.7, MET must abide by the following conditions of the recognition:

1. MET must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major change in its operations as a NRTL, and provide details of the change(s);

2. MET must meet all the terms of its recognition and comply with all OSHA

policies pertaining to this recognition; and

3. MET must continue to meet the requirements for recognition, including all previously published conditions on MET's scope of recognition, in all areas for which it has recognition.

Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the scope of recognition of MET, subject to the limitation and conditions specified above.

III. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 9, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–10330 Filed 5–14–18; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0041]

FM Approvals LLC: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of FM Approvals, LLC, for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application. Additionally, OSHA proposes to add four test standards to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before May 30, 2018.

ADDRESSES: Submit comments by any of the following methods:

Electronically: You may submit comments and attachments electronically at: *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0041, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW, Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., E.T.

Instructions: All submissions must include the Agency name and OSHA docket number (OSHA–2007–0041) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the above address. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. You may also contact Kevin Robinson at the address below to obtain a copy of the ICR.

Extension of comment period: Submit requests for an extension of the comment period on or before May 30, 2018 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, telephone: (202) 693–1999 email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, telephone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

OSHA is providing notice that FM Approvals, LLC, (FM), is applying for expansion of its current recognition as a NRTL. FM requests the addition of 28 test standards to its NRTL scope of recognition.

OSHA recognition of a NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by a NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational web page for each NRTL, including FM, which details the NRTL's scope of recognition. These pages are available from the OSHA website at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

FM currently has two facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: FM Approvals, LLC, 1151

Boston-Providence Turnpike, Norwood, Massachusetts 02062. A complete list of FM's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/fm.html*.

II. General Background on the Application

FM submitted an application, dated July 15, 2016 (OSHA–2007–0041–0008), to expand its recognition to include 28 additional test standards. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application. In reviewing the application, OSHA determined that three of the requested standards had been withdrawn by a standards development organization; therefore, OSHA is not proposing to add those three standards to FM's NRTL scope of recognition.[1]

Table 1 lists the appropriate test standards found in FM's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN FM'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 50	Enclosures for Electrical Equipment, Non-Environmental Considerations.
UL 50E	Enclosures for Electrical Equipment, Environmental Considerations.
UL 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
ISA 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
UL 60079–1	Standard for Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
ISA 60079–1	Standard for Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
UL 60079–2	Standard for Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".
UL 60079–5	Standard for Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
UL 60079–6	Standard for Explosive Atmosphere—Part 6: Equipment Protection Liquid Immersion "o".
ISA 60079–6	Standard for Explosive Atmosphere—Part 6: Equipment Protection Liquid Immersion "o".
UL 60079–7	Standard for Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
ISA 60079–7	Standard for Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
UL 60079–11	Standard for Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
ISA 60079–11	Standard for Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
UL 60079–15	Standard for Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
ISA 60079–15	Standard for Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
UL 60079–18	Standard for Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
UL 60079–25	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
ISA 60079–25*	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
UL 60079–26*	Standard for Explosive Atmospheres—Part 26: Equipment with Equipment Protection Level (EPL) Ga.
ISA 60079–26	Standard for Explosive Atmospheres—Part 26: Equipment with Equipment Protection Level (EPL) Ga.
UL 60079–28*	Standard for Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.
ISA 60079–28	Standard for Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation, Edition 1.1.
UL 60079–31*	Standard for Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".
ISA 60079–31	Standard for Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".

* Represents the standard that OSHA proposes to add to the NRTL Program's List of Appropriate Test Standards.

III. Proposal To Add New Test Standard to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL List of Appropriate Test Standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by a NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications).

In this notice, OSHA proposes to add four new test standards to the NRTL Program's List of Appropriate Test Standards. Table 2, lists the test standards that are new to the NRTL Program. OSHA preliminarily determined that these test standards are appropriate test standards and proposes to include them in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARDS OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
ISA 60079–25	Standard for Explosive Atmospheres—Part 25: Intrinsically Safe Electrical Systems.
UL 60079–28	Standard for Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation.
UL 60079–26	Standard for Explosive Atmospheres—Part 26: Equipment with Equipment Protection Level (EPL) Ga.
UL 60079–31	Standard for Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection Enclosure "t".

[1] OSHA is simultaneously publishing a **Federal Register** notice that will remove those three standards from the NRTL List of Appropriate Standards.

IV. Preliminary Findings on the Application

FM submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicate that FM can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of these 25 test standards for NRTL testing and certification listed above, including 4 standards that will be added to OSHA's list of Appropriate Test Standards. This preliminary finding does not constitute an interim or temporary approval of FM's application.

OSHA welcomes public comment as to whether FM meets the requirements of 29 CFR 1910.7 for expansion of its recognition as a NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3653, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2007–0041.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will make a recommendation to the Assistant Secretary for Occupational Safety and Health regarding the application for recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

IV. Authority and Signature

Loren Sweatt, Deputy Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on May 9, 2018.

Loren Sweatt,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2018–10331 Filed 5–14–18; 8:45 am]

BILLING CODE 4510–26–P

OFFICE OF MANAGEMENT AND BUDGET

Rescissions Proposals Pursuant to the Congressional Budget and Impoundment Control Act of 1974

AGENCY: Executive Office of the President, Office of Management and Budget.

ACTION: Notice of rescissions proposed pursuant to the Congressional Budget and Impoundment Control Act of 1974.

SUMMARY: Pursuant to section 1014(d) of the Congressional Budget and Impoundment Control Act of 1974, enclosed for publication in the **Federal Register** is a special message from the President reflecting the proposals for rescission under section 1012 of that Act that were transmitted to the Congress for consideration on May 8, 2018. In total, these proposals would rescind $15.4 billion in budget authority. These proposed rescissions affect programs of the Departments of Agriculture, Commerce, Energy, Health and Human Services, Housing and Urban Development, Justice, Labor, State, Transportation, and the Treasury, as well as the Corporation for National and Community Service, Environmental Protection Agency, Railroad Retirement Board, Millennium Challenge Corporation, and the U.S. Agency for International Development. If enacted, these rescissions would decrease Federal outlays in the affected accounts by an estimated $3.0 billion; this would have a commensurate effect on the Federal budget deficit and the national economy, and would result in less borrowing from the Federal Treasury.

DATES: *Release Date:* May 8, 2018.

ADDRESSES: The rescissions proposal package is available on-line on the OMB home page at: *https://www.whitehouse.gov/omb/budget-rescissions-deferrals/.*

FOR FURTHER INFORMATION CONTACT: Jessica Andreasen, 6001 New Executive Office Building, Washington, DC 20503, email address: *jandreasen@omb.eop.gov,* telephone number: (202) 395–3645. Because of delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

John Mulvaney,

Director.

TO THE CONGRESS OF THE UNITED STATES:

In accordance with section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 683), I herewith report 38 rescissions of budget authority, totaling $15.4 billion.

The proposed rescissions affect programs of the Departments of Agriculture, Commerce, Energy, Health and Human Services, Housing and Urban Development, Justice, Labor, State, Transportation, and the Treasury, as well as of the Corporation for National and Community Service, Environmental Protection Agency, Railroad Retirement Board, the Millennium Challenge Corporation, and the U.S. Agency for International Development.

The details of these rescissions are set forth in the enclosed letter from the Director of the Office of Management and Budget.

Donald J. Trump
The White House,
May 8, 2018.

The President
The White House

Dear Mr. President:

Submitted for your consideration are proposals for rescission under section 1012 of the Congressional Budget and Impoundment Control Act of 1974 (ICA) (2 U.S.C. 683) for the Departments of Agriculture, Commerce, Energy, Health and Human Services, Housing and Urban Development, Justice, Labor, State, Transportation, and the Treasury, as well as for the Corporation for National and Community Service, Environmental Protection Agency, Railroad Retirement Board, Millennium Challenge Corporation, and the U.S. Agency for International Development.

As demonstrated in your first two Budgets, the Administration is committed to ensuring the Federal Government spends precious taxpayer dollars in the most efficient, effective manner possible. Given the long-term fiscal constraints facing our Nation, we must use all available means to put our fiscal house back in order.

To that end, the Administration is utilizing the authorities granted to the President under the ICA to propose rescissions to enacted appropriations. The proposals included in this package would make it the largest single ICA rescissions package ever proposed.

The attached rescission proposals include unobligated balances from prior-year appropriations and reductions to budget authority for mandatory programs. These proposals include rescissions of funding that is no longer needed for the purpose for which it was appropriated by the Congress; in many cases, these funds have been left unspent by agencies for years. These proposals also include rescissions of low priority and unnecessary Federal spending. We look forward to working with the Congress to identify additional opportunities to reduce

wasteful and unnecessary Federal spending and put our Nation on a sustainable fiscal path.

This special message is transmitting your proposals to rescind $15.4 billion in budget authority. If enacted, these rescissions would decrease Federal outlays in the affected accounts by an estimated $3.0 billion; this would have a commensurate effect on the Federal budget deficit and the national economy, and would result in less borrowing from the Federal Treasury.

Recommendation

I join the heads of the affected departments and agencies in recommending you transmit the proposals to the Congress.

Mick Mulvaney
Director, Office of Management and Budget

PROPOSED RESCISSIONS OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of Public Law 93–344

Rescission proposal no. R18–1

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Animal and Plant Health Inspection Service
Account: Salaries and Expenses (012-1600/X)

Amount proposed for rescission: $148,000,000

Proposed rescission appropriations language:

Of the unobligated balances identified by the Treasury Appropriation Fund Symbol 12X1600, $148,000,000 are permanently rescinded.

Justification:

This proposal would rescind $148 million in no-year unobligated balances from prior years, of which there were $393 million available on October 1, 2017. The Animal and Plant Health Inspection Service carryover balances are from animal and plant health programs, including funds for disease outbreak response for incidents that are now resolved. These funds are in excess of amounts needed to carry out the programs in FY 2018. Enacting the rescission would have limited programmatic impact.

Rescission proposal no. R18–2

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Natural Resources Conservation Service
Account: Farm Security and Rural Investment Programs (012-1004/X)

Amount proposed for rescission: $499,507,921

Proposed rescission appropriations language:

Of the unobligated balances identified by the Treasury Appropriation Fund Symbol 12X1004, the following amounts are permanently rescinded: (1) $143,854,264 of amounts made available in section 2601(a)(5) of the Agricultural Act of 2014 (Public Law 113–79); (2) $146,650,991 of amounts made available in section 2701(d) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246); (3) $33,261,788 of amounts made available in section 2701(e) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246); (4) $12,960,988 of amounts made available in section 2701(g) of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246); (5) $7,447,193 of amounts made available in section 2510 of the Food, Conservation, and Energy Act of 2008 (Public Law 110–246); and (6) $155,332,698 of amounts made available from the Commodity Credit Corporation to carry out the wetlands reserve program.

Justification:

This proposal would rescind $356 million in unobligated balances of conservation programs that were not extended in the Agricultural Act of 2014, and $144 million in unobligated balances of the Environmental Quality Incentive Program (EQIP) from FY 2014 through FY 2017. There were a total of $1.5 billion in balances available in these programs on October 1, 2017. EQIP provides farmers and ranchers with financial cost-share and technical assistance to implement conservation practices on working agricultural land. These funds are from unobligated balances of expired programs or from prior years and are in excess of amounts needed to carry out the programs in FY 2018. Enacting the rescission would have limited programmatic impact.

Rescission proposal no. R18–3

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Natural Resources Conservation Service
Account: Watershed and Flood Prevention Operations (012-1072/X)

Amount proposed for rescission: $157,482,457

Proposed rescission appropriations language:

Of the unobligated balances identified in the Treasury Appropriation Fund Symbol 12X1072, the following amounts are rescinded: (1) $107,482,457 of amounts made available under the ''Emergency Conservation Activities'' heading in title X of the Disaster Relief Appropriations Act, 2013 (Public Law 113–2) for activities under section 403 of the Agriculture Credit Act of 1978 (Emergency Watershed Protection Program; 16 U.S.C. 2203); and (2) $50,000,000 of amounts made available under the ''Watershed and Flood Prevention Operations'' heading in the Consolidated Appropriations Act, 2017 (Public Law 115–31).

Justification:

This proposal would rescind a total $157 million in prior year balances, of which $378 million were available on October 1, 2017.

Of these amounts, $50 million would be rescinded from the Department of Agriculture's Watershed and Flood Prevention Operations program. This program conducts surveys and investigations, engineering operations, works of improvement, and changes in use of land. These funds are in excess of amounts needed to carry out the program in FY 2018. Enacting the rescission would have a minimal impact on the program as it is fully funded through the 2018 Consolidated Appropriations Act. Enacting the rescission would have limited programmatic impact.

In addition, this proposal would rescind $107 million in unobligated balances appropriated in FY 2013 for the Emergency Watershed Protection (EWP) Program. The EWP Program is an emergency recovery program that helps local communities recover after a natural disaster. The program offers technical and financial assistance to help local communities relieve imminent threats to life and property caused by floods, fires, windstorms, and other natural disasters that impair a watershed. These funds were initially provided as part of the Federal Government's response to aid in recovery efforts following Hurricane Sandy; however, a large balance of emergency funding remains unobligated in part due to the inability of project sponsors to generate the funding necessary for their portion of the project expenses. Enacting the proposal would rescind the balance of funding provided in response to Hurricane Sandy that has yet to be obligated.

Rescission proposal no. R18–4

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Housing Service
Account: Rental Assistance Program (012-0137 2017/2018)

Amount proposed for rescission: $40,000,000

Proposed rescission appropriations language:

From amounts made available under this heading in the Consolidated Appropriations Act, 2017 (Public Law 115–31) that remain available until September 30, 2018, $40,000,000 are rescinded.

Justification:

This proposal would rescind $40 million in carryover balances from the rental assistance program, of which there were $40 million available on October 1, 2017. The rental assistance program provides project-based rent on behalf of low and very-low income rural residents in Department of Agriculture financed multifamily housing projects. The FY 2018 appropriations fully funded the program, and these balances are not needed to fully renew all the rental assistance contracts in FY 2018.

Rescission proposal no. R18–5

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Housing Service
Account: Rural Community Facilities Program Account (012-1951/X)

Amount proposed for rescission: $2,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts, $2,000,000 are rescinded.

Justification:

This proposal would rescind $3 million in carryover balances from the community facilities program account, of which $10 million were available on October 1, 2017. The community facilities grants provide assistance to low income rural communities for essential community facilities such as police stations and medical clinics. The FY 2018 appropriations fully funded the

program, and these balances are not needed to carry out the program in FY 2018.

Rescission proposal no. R18–6

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Business-Cooperative Service
Account: Rural Cooperative Development Grants (012–1900/X)

Amount proposed for rescission: $14,705,229

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts, $14,705,229 are rescinded.

Justification:

This proposal would rescind $15 million in FY 2018 carryover balances from the value-added agricultural product market development grants, of which $24 million were available on October 1, 2017. The Value-Added Product Grant program provides grants to companies to market their agricultural products. These funds have been used for marketing things like chocolate-covered peanuts, which is wasteful given other Federal subsidies through the Farm Bill. Enacting the rescission would eliminate carryover funding for these unnecessary grants.

Rescission proposal no. R18–7

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Business-Cooperative Service
Account: Biorefinery Assistance Program Account (012–3106/X)

Amount proposed for rescission: $36,410,174

Proposed rescission appropriations language

Of the amounts made available in section 9003 of the Agricultural Act of 2014 (Public Law 113–79), $36,410,174 are rescinded.

Justification:

This proposal would rescind $36 million in unobligated balances of which $92 million were available on October 1, 2017. The Biorefinery Assistance Program, operated by the Rural Business-Cooperative Service, encourages the production of biofuels, renewable chemicals, and bioproducts. These funds are in excess of amounts needed to carry out the program in FY 2018.

Rescission proposal no. R18–8

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Utilities Service
Account: High Energy Cost Grants (012–2042/X)

Amount proposed for rescission: $13,275,855

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts, $13,275,855 are rescinded.

Justification:

This proposal would rescind $13 million in carryover balances for the High Cost Energy Grants, of which $13 million were available on October 1, 2017. These grants are for communities to improve energy generation, transmission, or distribution at facilities in communities where the average residential cost for home energy exceeds 275 percent of the national average. The FY 2018 appropriations fully funded the program, and these balances are not needed to carry out the program in FY 2018.

Rescission proposal no. R18–9

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Rural Utilities Service
Account: Rural Water and Waste Disposal Program Account (012–1980/X)

Amount proposed for rescission: $37,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts, $37,000,000 are rescinded: Provided, That no amounts may be rescinded from amounts that were designated by the Congress as an emergency or disaster relief requirement pursuant to the concurrent resolution on the budget or the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Justification:

This proposal would rescind $40 million in carryover balances from the Water and Wastewater program account, of which there were $40 million available on October 1, 2017. The Water and Wastewater program provides a grant/loan combination to low income communities of 10,000 or less for clean drinking water and wastewater facilities in rural America. The FY 2018 appropriations fully funded the program, and these balances are not needed to carry out the program in FY 2018.

Rescission proposal no. R18–10

Agency: DEPARTMENT OF AGRICULTURE
Bureau: Forest Service
Account: Land Acquisition (012–5004/X)

Amount proposed for rescission: $16,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts that were derived from the Land and Water Conservation Fund, $16,000,000 are permanently rescinded.

Justification:

This proposal would rescind $17 million in prior year balances for the Forest Service for acquisition of additional land, of which there were $19 million available on October 1, 2017. The Forest Service Land Acquisition program funds the acquisition of lands, waters, and related interests within the National Forest System to further Agency land management objectives for landscape restoration, outdoor recreation and public access, conservation of wildlife habitat, and protection of water quality. The proposed rescission would reduce unobligated budget authority that is inconsistent with the President's policies. Enacting the rescission would eliminate land purchase projects in national forests, while projects to increase open public access for hunting, fishing, and other recreational uses would continue to be funded from the amounts available.

Rescission proposal no. R18–11

Agency: DEPARTMENT OF COMMERCE
Bureau: Economic Development Administration
Account: Economic Development Assistance Programs (013–2050/X)

Amount proposed for rescission: $30,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from prior year appropriations, $30,000,000 are rescinded.

Justification:

This proposal would rescind $30 million in prior year balances of which there were nearly $44 million available on October 1, 2017. The Economic Development Administration (EDA)'s Economic Development Assistance Programs (EDAP) provide competitive economic development grants to economically distressed communities. The authorization for this program expired in 2008 and the Government Accountability Office has identified EDA programs as duplicative of several other economic development programs. Since 2015, the Congress has enacted rescissions of EDAP balances from prior year appropriations. The Consolidated Appropriations Act, 2018 (Public Law 115–141) rescinded $10 million of unobligated balances from prior year appropriations. This proposal increases that rescission by an additional $30 million, consistent with the larger rescission proposed in the FY 2018 Budget. Enacting the rescission would not impact EDA's ability to obligate funds appropriated in FY 2018, but would reduce the total funds available for award by the amount of the enacted rescission.

Rescission proposal no. R18–12

Agency: DEPARTMENT OF ENERGY
Bureau: Energy Programs
Account: Advanced Technology Vehicles Manufacturing Loan Program (089–0322/X)

Amount proposed for rescission: $4,333,499,814

Proposed rescission appropriations language:

Any unobligated balances of amounts provided by section 129 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Public Law 110–329) for the cost of direct loans as authorized by section 136(d) of the Energy Independence and Security Act of 2007 (Public Law 110–140) are rescinded.

Justification:

This proposal would rescind $4 billion in unobligated balances, of which there were $4 billion available on October 1, 2017, from amounts appropriated in FY 2009 for the cost of direct loans under the Advanced Technology Vehicles Manufacturing Loan Program. The Advanced Technology Vehicles Manufacturing Loan Program provides loans to automobile and automobile part manufacturers for the cost of re-equipping,

expanding, or establishing manufacturing facilities in the United States to produce advanced technology vehicles or qualified components and for associated engineering integration costs. This proposed rescission would eliminate budget authority that is inconsistent with the President's policies. Enacting the rescission would support the elimination of the program. Since its inception in 2007 only five loans have been closed under this authority, and since 2011 no new loans have closed. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–13

Agency: DEPARTMENT OF ENERGY
Bureau: Energy Programs
Account: Title 17 Innovative Technology Loan Guarantee Program (089–0208/X)

Amount proposed for rescission: $160,682,760

Proposed rescission appropriations language:

Of the unobligated balances made available by section 1425 of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Public Law 112–10) for the cost of loan guarantees for renewable energy or efficient end-use energy technologies under section 1703 of the Energy Policy Act of 2005 (42 U.S.C. 15513) $160,682,760 are rescinded.

Justification:

This proposal would rescind $161 million in unobligated subsidy amounts appropriated in FY 2011 for the Title 17 Innovative Technology Loan Guarantee Program, of which there were $161 million available on October 1, 2017. The Title 17 Innovative Technology Loan Guarantee Program encourages early commercial use of new or significantly improved technologies in energy projects. This proposed rescission would eliminate subsidy amounts that are inconsistent with the President's policies. Enacting the rescission would support the elimination of the program. Only three loan guarantees have been closed through this program since its inception, all related to a single project. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–14

Agency: DEPARTMENT OF ENERGY
Bureau: Energy Programs
Account: Title 17 Innovative Technology Loan Guarantee Program, Recovery (089–0209/X)

Amount proposed for rescission: $523,212,221

Proposed rescission appropriations language:

Any unobligated balances of amounts made available under this heading in the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) for the cost of guaranteed loans authorized by section 1705 of the Energy Policy Act of 2005 are rescinded.

Justification:

This proposal would rescind $523 million in unobligated credit subsidy amounts appropriated in FY 2009 for the Title 17 Innovative Technology Loan Guarantee Program, of which there were $523 million available on May 1, 2018. Appropriated by the Obama stimulus package, the program encourages early commercial use of new or significantly improved technologies in energy projects. This proposed rescission would eliminate subsidy amounts that are inconsistent with the President's policies. Enacting the rescission would support the elimination of the program. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–15

Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Bureau: Centers for Medicare and Medicaid Services
Account: Children's Health Insurance Fund (075–0515/X)

Amount proposed for rescission: $5,149,512,000

Proposed rescission appropriations language:

Of the unobligated balances available from section 301(b)(3) of Public Law 114–10 and pursuant to section 2104(m)(2)(B)(iv) of the Social Security Act, $5,149,512,000 are rescinded.

Justification:

This proposal would rescind $5.1 billion in amounts made available by the Medicare Access and CHIP Reauthorization Act of 2015 to supplement the 2017 national allotments to States, including $3.1 billion in unobligated balances available on October 1, 2017, and $2 billion in recoveries as of May 7, 2018. The 2017 one-time appropriation was made available in addition to the annual Children's Health Insurance Program (CHIP) appropriation to reimburse states for eligible CHIP expenses. Authority to obligate these funds to States expired on September 30, 2017, and the remaining funding is no longer needed. Enacting the rescission would have no programmatic impact. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–16

Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Bureau: Centers for Medicare and Medicaid Services
Account: Center for Medicare and Medicaid Innovation (075–0522/X)

Amount proposed for rescission: $800,000,000

Proposed rescission appropriations language:

Of the amounts made available in section 1115A(f)(1)(B) of the Social Security Act, $800,000,000 are rescinded.

Justification:

This proposal would rescind $800 million in amounts made available under Public Law 111–148 for FYs 2011 to 2019 for the Center for Medicare and Medicaid Innovation (the Innovation Center) of which there were $3.5 billion available on October 1, 2017. The Innovation Center was created to test innovative payment and service delivery models to reduce program expenditures under Medicare, Medicaid, and CHIP while preserving or enhancing quality of care. These funds are in excess of amounts needed to carry out the Innovation Center's planned activities in FYs 2018 and 2019, and the Innovation Center will receive a new mandatory appropriation in FY 2020. Enacting the rescission would allow the Innovation Center to continue its current activity, initiate new activity, and continue to pay for its administrative costs.

Rescission proposal no. R18–17

Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Bureau: Centers for Medicare and Medicaid Services
Account: Child Enrollment Contingency Fund (075–5551/X)

Amount proposed for rescission: $1,865,000,000

Proposed rescission appropriations language:

Of the amounts deposited in the Child Enrollment Contingency Fund for fiscal year 2018 under section 2104(n)(2) of the Social Security Act, $1,865,000,000 are permanently rescinded.

Justification:

This proposal would rescind $1.9 billion in amounts available for the Children's Health Insurance Program Contingency Fund, of which there were $2.4 billion available as of March 23, 2018. The Contingency Fund provides payments to States that experience funding shortfalls due to higher than expected enrollment. At this time, the Centers for Medicare and Medicaid Services does not expect that any State would require a Contingency Fund payment in FY 2018; therefore, this funding is not needed. Enacting this rescission would have no programmatic impact. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–18

Agency: DEPARTMENT OF HEALTH AND HUMAN SERVICES
Bureau: Departmental Management
Account: Nonrecurring Expenses Fund (075–0125/X)

Amount proposed for rescission: $220,000,000

Proposed rescission appropriations language:

Of the unobligated balances available in the Nonrecurring Expenses Fund established in section 223 of division G of Public Law 110–161, $220,000,000 are rescinded.

Justification:

This proposal would rescind $220 million in unobligated balances made available under Public Law 110–161, of which there were $510 million available on October 1, 2017. The Nonrecurring Expenses Fund (NEF) is a no-year account that receives transfers of expired unobligated balances from discretionary accounts prior to cancellation. The NEF is used for capital acquisition, including facilities infrastructure and information technology. This proposal would rescind available unobligated balances. The Department of Health and Human Services could continue to fund high

priority projects with other sources of funding.

Rescission proposal no. R18–19

Agency: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Bureau: Public and Indian Housing Programs
Account: Public Housing Capital Fund (086–0304 2015/2018)

Amount proposed for rescission: $1,192,287

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235), $1,192,287 are rescinded.

Justification:

This proposal would rescind $1 million in prior year balances of which there were $2 million available on October 1, 2017. The Capital Fund largely provides formula modernization grants to public housing authorities to address the capital repair needs in about one million units of public housing, in addition to set-asides for resident self-sufficiency programs and other programmatic needs. The proposed rescission would reduce budget authority that is inconsistent with the President's policies. Enacting the rescission would reduce prior year balances available for capital repair needs, emergency repairs including safety and security measures, physical inspections, administrative and judicial receiverships, and Resident Opportunity and Self-Sufficiency (ROSS) grants. Amounts appropriated in FY 2018 for the Public Housing Capital Fund could be used for some of these activities.

Rescission proposal no. R18–20

Agency: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Bureau: Public and Indian Housing Programs
Account: Public Housing Capital Fund (086–0304 2016/2019)

Amount proposed for rescission: $5,243,222

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2016 (Public Law 114–113), $5,243,222 are rescinded.

Justification:

This proposal would rescind $5 million in prior year balances of which there were $6 million available on October 1, 2017. The Capital Fund largely provides formula modernization grants to public housing authorities to address the capital repair needs in about one million units of public housing, in addition to set-asides for resident self-sufficiency programs and other programmatic needs. The proposed rescission would reduce budget authority that is inconsistent with the President's policies. Enacting the rescission would reduce prior year balances available for capital repair needs, emergency repairs including safety and security measures, physical inspections, administrative and judicial receiverships, and competitive Resident Opportunity and Self-Sufficiency (ROSS) and Jobs-Plus grants. Amounts appropriated in FY 2018 for the Public Housing Capital Fund could be used for some of these activities.

Rescission proposal no. R18–21

Agency: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Bureau: Public and Indian Housing Programs
Account: Public Housing Capital Fund (086–0304 2017/2020)

Amount proposed for rescission: $34,051,236

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31), $34,051,236 are rescinded.

Justification:

This proposal would rescind $34 million in prior year balances of which there were $118 million available on October 1, 2017. The Capital Fund largely provides formula modernization grants to public housing authorities to address the capital repair needs in about one million units of public housing, in addition to set-asides for resident self-sufficiency programs and other programmatic needs. The proposed rescission would reduce budget authority that is inconsistent with the President's policies. Enacting the rescission would reduce prior year balances available for capital repair needs, emergency repairs including safety and security measures, physical inspections, administrative and judicial receiverships, Resident Opportunity and Self-Sufficiency (ROSS) grants, and eliminate the FY 2017 competitive Jobs-Plus grants. Competitive grants to reduce lead-based paint hazards in public housing would continue to be funded from amounts available. Amounts appropriated in FY 2018 for the Public Housing Capital Fund could be used for some of these activities.

Rescission proposal no. R18–22

Agency: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Bureau: Public and Indian Housing Programs
Account: Public Housing Capital Fund (086–0304/X)

Amount proposed for rescission: $518,885

Proposed rescission appropriations language:

Of the unobligated balances available until expended under this heading, including from prior year appropriations, $518,885 are permanently rescinded.

Justification:

This proposal would rescind $1 million in prior year balances of which there were $8 million available on October 1, 2017. The Capital Fund largely provides formula modernization grants to public housing authorities to address the capital repair needs in about one million units of public housing, in addition to set-asides for resident self-sufficiency programs and other programmatic needs. The proposed rescission would reduce budget authority that is inconsistent with the President's policies. Enacting the rescission would reduce prior year balances available for capital repair needs, and technical assistance. Amounts appropriated in FY 2018 for the Public Housing Capital Fund could be used for some of these activities.

Rescission proposal no. R18–23

Agency: DEPARTMENT OF JUSTICE
Bureau: Legal Activities and U.S. Marshals
Account: Assets Forfeiture Fund (015-5042/X)

Amount proposed for rescission: $106,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading, including from prior year appropriations, $106,000,000 are permanently rescinded.

Justification:

This proposal would rescind $106 million in prior year balances of which there were $1.3 billion available on October 1, 2017. The Assets Forfeiture Fund receives the proceeds of forfeitures pursuant to any law enforced or administered by the Department of Justice. These resources are used to cover the costs associated with such forfeitures, including equitable sharing payments to participating State and local law enforcement, payments to victims and other innocent third party claimants, forfeiture-related investigative and litigation expenses, and asset management and disposition expenses. The funds proposed for rescission are in excess of amounts needed to carry out the program in FY 2018. Enacting the rescission would not impact program operations.

Rescission proposal no. R18–24

Agency: DEPARTMENT OF LABOR
Bureau: Employment and Training Administration
Account: Training and Employment Services (016-0174/X)

Amount proposed for rescission: $22,913,265

Proposed rescission appropriations language:

Any unobligated balances of amounts made available in section 1899K(b) of division B of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5) are rescinded.

Justification:

This proposal would rescind $23 million in remaining balances for National Emergency Grants (NEGs) authorized under the American Recovery and Reinvestment Act. These NEGs were authorized to help States implement the Health Coverage Tax Credit (HCTC) for Trade Adjustment Assistance recipients, both helping States establish the systems and procedures needed to make healthcare benefits available and providing assistance and support services to eligible individuals waiting to receive payments through the HCTC. The initial HCTC authorization expired on January 1, 2014, but was reinstated in 2015. Since the HCTC program was reinstated, the Department of Labor has only distributed $1.4 million in Health NEGs. Enacting this rescission would be unlikely to have a programmatic impact since the Department does not have plans for the remaining funds. This funding is currently allocated to a child

account; the proposed rescission would be executed from the parent account, which has been identified above. The proposed rescission would have no effect on outlays.

Rescission proposal no. R18–25

Agency: DEPARTMENT OF STATE
Bureau: Other
Account: Complex Crises Fund (072-1015/X)

Amount proposed for rescission: $30,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) and the Consolidated Appropriations Act, 2016 (114–113), $30,000,000 are rescinded.

Justification:

This proposal would rescind $30 million in prior year balances from the Complex Crises Fund (CCF), of which $53 million were available on October 1, 2017. The CCF was designed to support rapid response programs to address emerging and unforeseen crises in order to de-escalate them. To date, the account has largely been used to support activities that are similar to longer-term development work and could be carried out within the resources and authorities of the Economic Support Fund. Since other resources and authorities are available to carry out these activities, funding in this account is unnecessary and is not a priority for the Administration. Enacting the rescission would eliminate all remaining unobligated and unplanned balances for the account.

Rescission proposal no. R18–26

Agency: INTERNATIONAL ASSISTANCE PROGRAMS
Bureau: Millennium Challenge Corporation
Account: Millennium Challenge Corporation (524-2750/X)

Amount proposed for rescission: $52,000,000

Proposed rescission appropriations language:

From amounts made available under this heading in the Consolidated Appropriations Act, 2017 (Public Law 115–31) and prior Acts, $52,000,000 are rescinded.

Justification:

This proposal would rescind $52 million in unobligated balances, of which there were at least $52 million available on October 1, 2017. The Millennium Challenge Corporation (MCC) is an independent agency with no year funds authority that provides grants to developing countries to reduce poverty through economic growth. These unobligated balances proposed for rescission are not needed to carry out the program in FY 2018. The Indonesia compact has reached the grant closeout period and funding is anticipated to be returned to MCC. In addition, funding provided for the MCC in the Consolidated Appropriations Act, 2018 was more than requested in the FY 2018 Budget. As such, enacting the rescission would have limited impact on MCC's planned programs.

Rescission proposal no. R18–27

Agency: INTERNATIONAL ASSISTANCE PROGRAMS
Bureau: Agency for International Development
Account: International Disaster Assistance (072-1035/X)

Amount proposed for rescission: $252,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113–235), $252,000,000 are rescinded.

Justification:

This proposal would rescind $252 million in prior year balances of emergency funding appropriated in FY 2015 for the Ebola response, of which there were $470 million in emergency balances available for the Ebola response on October 1, 2017. The Congress provided these for countries affected by, or at risk of being affected by, the Ebola virus disease outbreak in 2015. These funds remain from the initial outbreak in 2015 and are no longer needed because the Ebola response has largely concluded. Enacting the rescission would therefore not impact the Ebola response.

Rescission proposal no. R18–28

Agency: DEPARTMENT OF TRANSPORTATION
Bureau: Federal Highway Administration
Account: Miscellaneous Appropriations (069-0538/X)

Amount proposed for rescission: $85,938,251

Proposed rescission appropriations language:

Of the unobligated balances available in the ''Surface Transportation Priorities'' account under Treasury Account Fund Symbol 69X0538 from the Consolidated Appropriations Act, 2010 (Public Law 111–117) or any other Act, $85,938,251 are rescinded.

Justification:

This proposal would rescind $86 million in prior year balances, of which there were $90 million available on October 1, 2017. The 2010 Consolidated Appropriations Act and prior Acts provided funding to carry out earmarked highway projects, many of which are less than $1 million, and are not regionally or nationally significant projects justifying direct appropriations. Many of these earmarks would be eligible for regular Federal Aid Highway formula funding, and if these balances are rescinded, States could direct their Federal Aid formula grant funds towards these projects, if they so choose.

Rescission proposal no. R18–29

Agency: DEPARTMENT OF TRANSPORTATION
Bureau: Federal Highway Administration
Account: Appalachian Development Highway System (069-0640/X)

Amount proposed for rescission: $45,240,246

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105–66) or any other Act, $45,240,246 are rescinded.

Justification:

This proposal would rescind $45 million in prior year balances, of which there were $46 million available on October 1, 2017. The Appalachian Development Highway System (ADHS) program was authorized to provide grant funding for projects involving construction of, and improvements to, ADHS highway corridors. The Moving Ahead for Progress in the 21st Century Act (MAP–21, Public Law 112–141) eliminated the standalone ADHS program, as the vast majority of the system had been built out. However, States can continue to use their other Federal Aid Highway funds to support continued improvement of these corridors. The broader Federal Aid Highway eligibility, combined with the fact that the ADHS system is largely built-out, results in limited impact from rescinding these legacy balances.

Rescission proposal no. R18–30

Agency: DEPARTMENT OF TRANSPORTATION
Bureau: Federal Highway Administration
Account: Miscellaneous Highway Trust Funds (069-8058/X)

Amount proposed for rescission: $48,019,600

Proposed rescission appropriations language:

Of the unobligated balances available under the heading ''Miscellaneous Highway Projects'' from the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346) or any other Act, $48,019,600 are permanently rescinded.

Justification:

This proposal would rescind $48 million in prior year balances, of which there were $53 million available on October 1, 2017. These balances are derived from the Department of Transportation and Related Agencies Appropriations Act, 2001, related to miscellaneous highway projects. Given the age of the balances, there will be little to no programmatic impact in rescinding these funds.

Rescission proposal no. R18–31

Agency: DEPARTMENT OF TRANSPORTATION
Bureau: Federal Railroad Administration
Account: Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service (069-0719/X)

Amount proposed for rescission: $53,404,128

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2010 (Public Law 111–117) $53,404,128 are rescinded.

Justification:

This proposal would rescind $53 million in prior year balances, of which there were nearly $56 million available on October 1, 2017. The High Speed Rail program provided capital grants to States to invest and improve intercity passenger rail service, including the development of new high-speed capacity. Approximately $47 million of these funds were awarded in 2011, but not obligated, for the Chicago to Iowa City rail corridor project. The obligation of these funds is contingent upon work done to construct improvements necessary to restart passenger rail service between the two regions, which is long stalled and still in the design phase. No new funding has been provided to the High Speed Rail program since FY 2010, when these balances were appropriated. Rescinding these funds will not have a significant impact on high speed passenger rail projects.

Rescission proposal no. R18–32

Agency: DEPARTMENT OF TRANSPORTATION
Bureau: Federal Transit Administration
Account: Formula Grants (069-1129/X)

Amount proposed for rescission: $46,560,000

Proposed rescission appropriations language:

Of the unobligated balances available for Transit Formula Grants from fiscal year 2005 and prior fiscal years, $46,560,000 are permanently rescinded.

Justification:

This proposal would rescind $47 million in prior year balances, of which there were nearly $48 million available on October 1, 2017. This General Fund program provided formula grant funding to transit agencies in FY 2005 and earlier. Formula funding for transit agencies is now carried out exclusively by the Mass Transit Account of the Highway Trust Fund (HTF), and these balances are the residual balances remaining from funds provided in FY 2005 and earlier. Enacting this rescission would have a negligible impact on overall transit investments, as the Consolidated Appropriations Act, 2018, provided $9.7 billion for Transit Formula Grants within the HTF.

Rescission proposal no. R18–33

Agency: DEPARTMENT OF THE TREASURY
Bureau: Departmental Offices
Account: Treasury Forfeiture Fund (020-5697/X)

Amount proposed for rescission: $53,000,000

Proposed rescission appropriations language:

Of the unobligated balances available in the Treasury Forfeiture Fund established by the Treasury Forfeiture Fund Act of 1992 (31 U.S.C. 9705), $53,000,000 are permanently rescinded.

Justification:

This proposal would rescind $53 million in prior year balances, of which there were $669 million available on October 1, 2017. The Treasury Forfeiture Fund receives the proceeds of non-tax forfeitures made pursuant to laws enforced or administered by participating bureaus of the Departments of the Treasury and Homeland Security. These resources are used to cover the costs associated with such forfeitures, including equitable sharing payments to participating State and local law enforcement; payments to victims and other innocent third party claimants; forfeiture-related investigative and litigation expenses; and asset management and disposition expenses. The funds proposed for rescission are in excess of amounts needed to carry out the program in FY 2018. Enacting the rescission would not impact core program operations.

Rescission proposal no. R18–34

Agency: DEPARTMENT OF THE TREASURY
Bureau: Departmental Offices
Account: Community Development Financial Institution Fund Program Account (020-1881 2017/2018)

Amount proposed for rescission: $22,787,358

Proposed rescission appropriations language:

Of the unobligated balances available under this heading for the Bank Enterprise Award Program from the Consolidated Appropriations Act, 2017 (Public Law 115–31) $22,787,358 are rescinded.

Justification:

This proposal would rescind $23 million in funds appropriated in FY 2017 for the Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund) Bank Enterprise Award (BEA) Program of which $23 million were available on October 1, 2017. These funds, which have yet to be disbursed, would be used for awards to FDIC-insured depository institutions that support Community Development Financial Institutions. This proposed rescission would reduce budget authority that is inconsistent with the President's policies.

Rescission proposal no. R18–35

Agency: DEPARTMENT OF THE TREASURY
Bureau: Departmental Offices
Account: Capital Magnet Fund, Community Development Financial Institutions (020-8524/X)

Amount proposed for rescission: $151,281,335

Proposed rescission appropriations language:

From amounts made available to the Capital Magnet Fund for fiscal year 2018 pursuant to sections 1337 and 1339 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 4567 and 4569) $151,281,335 are permanently rescinded.

Justification:

This proposal would rescind $151 million in amounts made available under the Housing and Economic Recovery Act of 2008 (Public Law 110–289) for FY 2018, of which $151 million was available on May 1, 2018. The Capital Magnet Fund (CMF) is a competitive grant program that funds housing nonprofits and Community Development Financial Institutions to finance affordable housing activities, as well as related economic development activities and community service facilities. This proposed rescission of CMF balances, which were derived from assessments on Fannie Mae and Freddie Mac under permanent law, would reduce budget authority that is inconsistent with the President's policies, recognizing that State and local governments and the private sector have a greater role to play in addressing affordable housing needs. Enacting the rescission would reduce the funds available for grants under this program.

Rescission proposal no. R18–36

Agency: ENVIRONMENTAL PROTECTION AGENCY
Bureau: Environmental Protection Agency
Account: Environmental Programs and Management (068-0108 2017/2018)

Amount proposed for rescission: $10,000,000

Proposed rescission appropriations language:

Of the unobligated balances available under this heading from the Consolidated Appropriations Act, 2017 (Public Law 115–31) $10,000,000 are rescinded, including from amounts described in the first proviso.

Justification:

This proposal would rescind $10 million in prior year balances, of which there were $208 million available on October 1, 2017. This is EPA's primary account that funds salaries, travel, contracts, grants, and cooperative agreements for pollution abatement, compliance, and administrative activities of the operating programs. The funds proposed for rescission are targeted for competitive water quality research and support grants, which are duplicative with other Federal programs. Enacting the rescission would reduce funding for water quality research and support grants.

Rescission proposal no. R18–37

Agency: CORPORATION FOR NATIONAL AND COMMUNITY SERVICE
Bureau: Corporation for National and Community Service
Account: Gifts and Contributions (485-8981/X)

Amount proposed for rescission: $150,000,000

Proposed rescission appropriations language:

Of the unobligated balances available in the ''National Service Trust'' established in section 102 of the National and Community Service Trust Act of 1993, $150,000,000 are permanently rescinded.

Justification:

This proposal would rescind $150 million in prior year balances from the National Service Trust, of which there were $205 million available on October 1, 2017. The National Service Trust provides funds for educational awards to eligible AmeriCorps volunteers who have completed their terms of service. The available balances in the Trust are in excess of amounts needed to cover educational awards in FY 2018. This rescission would not impact the agency's operations. This rescission would have no effect on outlays.

Rescission proposal no. R18–38

Agency: RAILROAD RETIREMENT BOARD
Bureau: Railroad Retirement Board
Account: Railroad Unemployment Insurance Extended Benefits Payments (060-0117/X)

Amount proposed for rescission: $132,612,397

Proposed rescission appropriations language:

Of the amounts made available in section 9 of the Worker, Homeownership, and Business Assistance Act of 2009 (Public Law 111–92), $132,612,397 are rescinded.

Justification:

This proposal would rescind $133 million in prior year balances of which there were slightly more than $133 million available on October 1, 2017. These funds were enacted to pay extended unemployment insurance benefits to railroad workers. The program expired on December 31, 2012 and the remaining funding is no longer needed. Enacting the rescission would not have any programmatic impact on the program. The proposed rescission would have no effect on outlays.

[FR Doc. 2018–10251 Filed 5–14–18; 8:45 am]

BILLING CODE 3110–01–P

MARINE MAMMAL COMMISSION

Sunshine Act Notice

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will hold a public meeting on Tuesday, 29 May 2018, from 10:30 a.m. to 5:30 p.m.; Wednesday, 30 May 2018 from 8:30 a.m. to 5:30 p.m.; and Thursday, 31 May 2018, from 8:30 a.m. to 5:00 p.m.

The Commission and the Committee also will meet in executive session on Tuesday, 29 May 2018, from 8:30 to 10:00 a.m.

PLACE: Courtyard Ballroom, Renaissance Seattle Hotel, 515 Madison Street, Seattle, Washington.

STATUS: The executive session will be closed to the public in accordance with the provisions of the Government in the Sunshine Act (5 U.S.C. 552b) and applicable regulations. The session will be limited to discussions of internal agency practices and personnel. All other portions of the meeting will be open to the public. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal science and conservation issues, with a particular focus on issues related to the Pacific Northwest and the West Coast. A draft agenda for the meeting is posted on the Commission's website at *https://www.mmc.gov/wp-content/uploads/MMC-2018-Annual-Meeting-Agenda_Public_27April2018.pdf* and will be updated as necessary.

FOR FURTHER INFORMATION CONTACT: The Marine Mammal Commission, 4340 East-West Highway, Room 700, Bethesda, MD 20814; (301) 504–0087; email: *mmc@mmc.gov.*

Dated: May 8, 2018.

Peter O. Thomas,

Executive Director.

[FR Doc. 2018–10376 Filed 5–11–18; 11:15 am]

BILLING CODE 6820–31–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

60-Day Notice for the "Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students"

AGENCY: National Endowment for the Arts, National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed collection; comment request.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data is 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 is properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection for applications from students for Agency Initiatives Poetry Out Loud or the Musical Theater Songwriting Challenge for High School Students. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**. The NEA 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
- Can help the agency minimize the burden of the collection of information on those who are to respond, including through the electronic submission of responses.

ADDRESSES: Email comments to Jillian Miller, Director, Office of Guidelines and Panel Operations, National Endowment for the Arts, at: *millerj@arts.gov.*

FOR FURTHER INFORMATION CONTACT: Jillian Miller, Director of Guidelines and Panel Operations, National Endowment for the Arts, at *millerj@arts.gov* or (202) 682–5504.

Dated: May 9, 2018.

Jillian LeHew Miller,

Director, Office of Guidelines and Panel Operations, Administrative Services, National Endowment for the Arts.

[FR Doc. 2018–10270 Filed 5–14–18; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–609; NRC–2013–0235]

Northwest Medical Isotopes, LLC; Medical Radioisotope Production Facility

AGENCY: Nuclear Regulatory Commission.

ACTION: Construction permit and record of decision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is providing notice of the issuance of Construction Permit No. CPMIF–002 to Northwest Medical Isotopes, LLC (NWMI) and record of decision (ROD).

DATES: The construction permit was issued, and is immediately effective, May 9, 2018.

ADDRESSES: Please refer to Docket ID NRC–2013–0235 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search

for Docket ID NRC–2013–0235. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michael Balazik, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2856; email: *Michael.Balazik@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 2.106 of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is providing notice of the issuance of Construction Permit No. CPMIF–002 to NWMI and the issuance of the ROD under 10 CFR 51.102(c). The construction permit, which is immediately effective, authorizes NWMI to construct a 10 CFR part 50 production facility designed for the production of medical radioisotopes in Columbia, Missouri, as described in NWMI's application for a construction permit and in evidence received at the mandatory hearing held by the Commission. With respect to the application for the construction permit filed by NWMI, the NRC finds that the applicable standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations have been met. The NRC finds that any required notifications to other agencies or bodies have been duly made and that, among other things, there is reasonable assurance that the activities authorized by the permit will be conducted in compliance with the rules and regulations of the Commission, that safety questions will be satisfactorily resolved by the completion of construction, and that, taking into consideration siting criteria, the proposed facility can be constructed and operated at the proposed location without undue risk to the public health and safety, subject to the conditions listed in the construction permit. Furthermore, the NRC finds that the licensee is technically and financially qualified to engage in the activities authorized, and that issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Finally, the NRC finds that the findings required by subpart A of 10 CFR part 51 have been made.

II. Further Information

The NRC prepared a safety evaluation report and a final environmental impact statement that document the information reviewed and the NRC's conclusions. The Commission also issued its Memorandum and Order (CLI–18–06), documenting its final decision on the mandatory hearing held on January 23, 2018, which serves as the ROD in this proceeding. The Commission's final decision authorized the issuance of the construction permit for the NWMI medical radioisotope production facility, contingent upon the inclusion of a revised safety permit condition. The NRC also prepared a document summarizing the ROD to accompany its action on the construction permit application that incorporates by reference materials contained in the final environmental impact statement. In accordance with 10 CFR 2.390 of the NRC's ''Agency Rules of Practice and Procedure,'' details with respect to this action, including the safety evaluation report, final environmental impact statement, summary ROD, and accompanying documentation included in the construction permit package, as well as the Commission's hearing decision and ROD, are available online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* From this site, persons can access the NRC's ADAMS, which provides text and image files of NRC's public documents. In addition, prior to its publication as a NUREG document, the NRC staff will update the safety evaluation report to reflect the revised permit condition.

III. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No.
Construction Permit No. CPMIF–002	ML18037A308
Commission's Memorandum and Order (CLI-18–06) on the Mandatory Hearing (ROD)	ML18123A374
Summary of the Record of Decision	ML18053A074
Safety Evaluation Report Related to the Northwest Medical Isotopes, LLC Construction Permit Application for a Production Facility.	ML18016A021
NUREG–2209, ''Environmental Impact Statement for the Construction Permit for the Northwest Medical Isotopes Radioisotope Production Facility: Final Report''.	ML17130A862
NWMI Construction Permit Application	ML15210A182 ML17257A019

Dated at Rockville, Maryland, this 9th day of May 2018.

For the Nuclear Regulatory Commission.

Anita L. Lund,

Director, Division of Licensing Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 2018–10273 Filed 5–14–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 11005323; NRC–2018–0080]

Diversified Scientific Services, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Export license amendment and renewal application; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering issuing an export license amendment and renewal of License No. XW008/05 requested by Diversified Scientific Services, Inc. (DSSI). On February 9, 2018, DSSI submitted a revised application with the NRC to amend and renew License No. XW008/04. The request seeks the NRC's approval for renewal and amendment of an existing license authorizing the export of radioactive waste to Canada. The NRC is providing notice of the opportunity to request a hearing on DSSI's revised application.

DATES: Submit comments by June 14, 2018. Requests for a hearing or a petition for leave to intervene must be filed by June 14, 2018.

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

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0080. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Andrea R. Jones, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9072, email: *Andrea.Jones2@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0080 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket NRC–2018–0080.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DSSI export license amendment and renewal application is available in ADAMS under Accession No. ML18085A690.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2018–0080 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

In accordance with section 110.70(b) of title 10 of the *Code of Federal Regulations* (10 CFR), the NRC is noticing the receipt of an export license amendment and renewal application submitted by DSSI on February 9, 2018, for the export of Canadian-origin low-level radioactive waste from the State of Tennessee to Canada. The existing license authorizes the export of up to 378,000 kilograms of treated and processed low-level radioactive waste. The amendment and renewal requests: (1) An extension of the license from March 31, 2017 to March 31, 2022; (2) a change to the license point of contact; (3) a change in the name of one ultimate foreign consignee from Atomic Energy of Canada Limited to Canadian Nuclear Laboratories; (4) removal of the reference to Waste Classification as defined in 10 CFR 61.55 and reference to Table A2 values of 49 CFR 173.435 from the waste description, since 10 CFR 61.55 is not applicable because treated and processed waste are to be returned to Canada; (5) removal of previous references to Import License No. IW012/05; (6) updated of radioactivity levels; (7) inclusion of a port of exit in the State of New York and a port of exit in the State of Michigan. The NRC is noticing the request to amend and renew the license to export radioactive waste, open the opportunity for public comment, and open the opportunity to file a request for a hearing or petition for leave to intervene to June 14, 2018. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520. Hearing requests and intervention petitions must include the information specified in 10 CFR 110.82(b).

A request for a hearing or petition for leave to intervene may be filed with the

NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007 (72 FR 49139; August 28, 2007). Information about filing electronically is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *hearingdocket@nrc.gov* or by calling 301–415–1677 to request a digital ID certificate and allow for the creation of an electronic docket.

The information concerning this application for an export license amendment and renewal follows:

NRC EXPORT LICENSE AMENDMENT AND RENEWAL APPLICATION

[Description of Material]

Name of applicant, date of application, date received, Application No., Docket No., and ADAMS Accession No.	Material type	Total quantity	End use	Country of destination
Diversified Scientific Services, Inc. (DSSI). February 9, 2018. February 14, 2018. XW008/05. 11005323. ML18085A690.	Radioactive waste equivalent to Class A, B, and/or C, including oil, solvents, scintillation fluids, grease, paint chips, paint sludge, spent bead resins, powder resins, contaminated with activated carbon-14, hydrogen-3, and other mixed fission product radionuclides. The maximum activity level of all contaminants combined shall not exceed 75 Terrabecquerels (2,010 curies) per shipment.	Authorization to export a total maximum quantity of 378,000 kilograms.	Return of non-conforming waste and/or waste resulting from processing materials for appropriate disposition. The amendment and renewal requests: (1) An extension of the license from March 31, 2017 to March 31, 2022; (2) a change to the license point of contact; (3) a change in the name of one ultimate foreign consignee from Atomic Energy of Canada Limited to Canadian Nuclear Laboratories; 4) removal of the reference to Waste Classification as defined in 10 CFR 61.55 and reference to Table A2 values of 49 CFR 173.435 from the waste description since 10 CFR 61.55 is not applicable because treated and processed waste are to be returned to Canada; (5) removal of previous references to Import License IW012/05; (6) updated radioactivity levels; and (7) inclusion of a port of exit in the State of New York and a port of exit in State of Michigan.	Canada.

Dated at Rockville, Maryland, this 9th day of May 2018.

For the Nuclear Regulatory Commission.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2018–10247 Filed 5–14–18; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2018–0082]

Revision of the NRC Enforcement Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Revision to policy statement.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing a revision to its Enforcement Policy (Enforcement Policy or Policy) to address the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Improvements Act). The 2015 Improvements Act amended the Federal Civil Penalties Inflation Adjustment Act (FCPIAA) of 1990, and now requires Federal agencies to adjust their maximum civil monetary penalty annually for inflation.

DATES: This action was effective on January 12, 2018.

ADDRESSES: Please refer to Docket ID NRC–2018–0082 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0082. Address questions about NRC dockets to Jennifer Borges; telephone: 301–287–9127; email: *Jennifer.Borges@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Gerry Gulla, Office of Enforcement, telephone: 301–287–9143, email: *Gerald.Gulla@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

In 1990, Congress passed the Federal Civil Penalties Inflation Adjustment Act of 1990, to provide for regular adjustment for inflation of civil monetary penalties (CMPs). As amended by the Debt Collection Improvement Act of 1996, the FCPIAA required that the head of each Federal agency review, and if necessary, adjust by regulation the CMPs assessed under statutes enforced by the agency at least once every four years.

On November 2, 2015, the President of the United States signed into law the 2015 Improvements Act, which further amended the FCPIAA and requires Federal agencies to adjust their CMPs annually for inflation no later than January 15 of each year. These requirements apply to the NRC's maximum CMP amounts for (1) a violation of the Atomic Energy Act (AEA) of 1954, as amended, or any regulation or order issued under the AEA, codified in section 2.205(j) of title 10 of the *Code of Federal Regulations* (CFR), ''Civil Penalties''; and (2) a false claim or statement made under the Program Fraud Civil Remedies Act, codified in 10 CFR 13.3, ''Basis for Civil Penalties and Assessments.''

Pursuant to the 2015 Improvements Act, the NRC codified on January 12,

2018 (83 FR 1515), the revised maximum daily base CMP based on the percentage change in the consumer price index between October 2017 and October 2016. Because this revised monetary value directly impacts the CMPs assessed to NRC licensees, the NRC's Enforcement Policy table of civil penalties requires revision. Specifically, the monetary amounts found in Section 8.0, ''Table of Base Civil Penalties'' items a—e and g. This monetary adjustment does not include item ''f'' since its monetary value is based on the estimated or actual cost of authorized disposal and not on the monetary value codified in 10 CFR 2.205(j).

Accordingly, the NRC has revised its Policy to read as follows:

8.0—TABLE OF BASE CIVIL PENALTIES

Table A

a. Power reactors, gaseous diffusion uranium enrichment plants, and high-level waste repository	$290,000
b. Fuel fabricators authorized to possess Category I or II quantities of SNM and uranium conversion facilities	145,000
c. All other fuel fabricators, including facilities under construction, authorized to possess Category III quantities of SNM, industrial processors, independent spent fuel and monitored retrievable storage installations, mills, gas centrifuge and laser uranium enrichment facilities	72,500
d. Test reactors, contractors, waste disposal licensees, industrial radiographers, and other large material users	29,000
e. Research reactors, academic, medical, or other small material users	14,500
f. Loss, abandonment, or improper transfer or disposal of regulated material, regardless of the use or type of licensee:	
1. Sources or devices with a total activity greater than 3.7 × 104 MBq (1 Curie), excluding hydrogen-3 (tritium)	54,000
2. Other sources or devices containing the materials and quantities listed in 10 CFR 31.5(c)(13)(i)	17,000
3. Sources and devices not otherwise described above	7,000
g. Individuals who release safeguards information	7,250

II. Procedural Requirements

Paperwork Reduction Act Statement

This policy statement does not contain any new or amended collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing collection of information were approved by the Office of Management and Budget (OMB), approval numbers 3150–0010 and 3150–0136.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

Congressional Review Act

This action is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

Dated at Rockville, Maryland, this 10th day of May 2018.

For the Nuclear Regulatory Commission.

Victor McCree,

Executive Director for Operations.

[FR Doc. 2018–10350 Filed 5–14–18; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Sunshine Notice; June 6, 2018 Public Hearing

TIME AND DATE: 2:00 p.m., Wednesday, June 6, 2018.

PLACE: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue NW, Washington, DC.

STATUS: Hearing OPEN to the Public at 2:00 p.m.

PURPOSE: Public Hearing in conjunction with each meeting of OPIC's Board of Directors, to afford an opportunity for any person to present views regarding the activities of the Corporation.

PROCEDURES: Individuals wishing to address the hearing orally must provide advance notice to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, May 30, 2018. The notice must include the individual's name, title, organization, address, and telephone number, and a concise summary of the subject matter to be presented.

Oral presentations may not exceed ten (10) minutes. The time for individual presentations may be reduced proportionately, if necessary, to afford all participants who have submitted a timely request an opportunity to be heard.

Participants wishing to submit a written statement for the record must submit a copy of such statement to OPIC's Corporate Secretary no later than 5 p.m. Wednesday, May 30, 2018. Such statement must be typewritten, double spaced, and may not exceed twenty-five (25) pages.

Upon receipt of the required notice, OPIC will prepare an agenda, which will be available at the hearing, that identifies speakers, the subject on which each participant will speak, and the time allotted for each presentation.

A written summary of the hearing will be compiled, and such summary will be made available, upon written request to OPIC's Corporate Secretary, at the cost of reproduction.

Written summaries of the projects to be presented at the June 14, 2018, Board meeting will be posted on OPIC's website.

CONTACT PERSON FOR INFORMATION: Information on the hearing may be obtained from Catherine F.I. Andrade at (202) 336–8768, via facsimile at (202) 408–0297, or via email at *Catherine.Andrade@opic.gov.*

Dated: May 11, 2018.

Catherine F.I. Andrade,

OPIC Corporate Secretary.

[FR Doc. 2018–10405 Filed 5–11–18; 11:15 am]

BILLING CODE 3210–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018–148 and CP2018–214; MC2018–149 and CP2018–215]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 17, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).*: MC2018–148 and CP2018–214*; Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 35 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* May 17, 2018.

2. *Docket No(s).*: MC2018–149 and CP2018–215; *Filing Title:* USPS Request to Add Priority Mail Contract 433 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* May 9, 2018; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Kenneth R. Moeller; *Comments Due:* May 17, 2018.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2018–10285 Filed 5–14–18; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83202; File No. SR–NYSEArca–2018–29]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Options Fee Schedule

May 9, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 1, 2018, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective May 1, 2018. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend the Fee Schedule effective May 1, 2018. Specifically, the Exchange proposes to offer an additional incentive for Market Makers to post liquidity in the SPDR S&P 500 ETF Trust (''SPY'').

Currently, Market Makers receive a $0.28 per contract credit for executions against Market Maker posted liquidity in Penny Pilot Issues and Lead Market Makers (''LMMs'') may receive an additional $.04 per contract credit (for a total of $0.32 per contract credit) for posted liquidity in Penny Pilot Issues that are in the LMM's appointment.[4] Similarly, Market Makers may receive a $0.28 per contract credit for executions against their posted liquidity in SPY.[5] The Exchange currently offers additional incentives (*i.e.,* enhanced credits) to Market Makers to post liquidity.[6]

The Exchange also offers an incentive to encourage Market Makers to post interest in SPY. A Market Maker that has posted interest of at least 0.20% of TCADV in SPY during a calendar month receives a per contract credit of $0.45

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Fee Schedule, Transaction Fee for Electronic Executions, Per Contract. *See also* Market Maker Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues and SPY (the ''MM Tiers'').

[5] *See* Fee Schedule, the MM Tiers, Base Rate.

[6] *See id. See, e.g.,* the Market Maker Incentive for Penny Pilot Issues (which provides a $0.41 per contract credit for executions of Marker Maker posted interest provided the Market Maker achieves at least 0.75% of total industry Customer equity and ETF option average daily volume (''TCADV'') from Customer posted interest (*e.g.,* from the Marker Maker's affiliate of Appointed Order Flow Provider) in all issues and an ADV from Market Maker posted interest equal to 0.70% of TCADV).

for electronic executions against such posted interest. The Exchange proposes to add an intermediate level incentive by offering any Market Maker that has posted interest of at least 0.15% of TCADV in SPY during a calendar month, a per contract credit of $0.36 for electronic executions against such posted interest [7]

As is the case today, a Market Maker that qualifies for more than one available credit will always receive the highest rebate applicable to a transaction. For example, a Market Maker that is eligible to receive both the $0.41 per contract credit via the Market Maker Incentive For Penny Pilot Issues as well as the proposed $0.36 per contract credit via the Market Maker Incentive for SPY would receive the former (higher) credit.

The Exchange is not proposing any other changes to the Fee Schedule at this time.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act, in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that providing an intermediate incentive for executions against posted liquidity in SPY is reasonable, equitable, and not unfairly discriminatory because, among other things, it may encourage greater participation in SPY—which is consistently the most active options issue nationally. The proposed SPY incentive would also provide an additional means for Market Makers to qualify for credits for posting volume on the Exchange. By encouraging activity in SPY, the Exchange believes that opportunities to qualify for other rebates are increased, which benefits all participants through increased Market Maker activity. The Exchange also believes that encouraging a higher level of trading volume in SPY should increase opportunities for OTP Holders and OTP Firms (''OTPs'') to achieve credits available through existing incentive programs, such as the MM Tiers, which provides OTPs the ability to achieve per contract credit for electronic executions of posted Market Maker interest in SPY and other Penny Pilot names by combining the volume of the OTP with volume of their affiliates or Appointed Market Maker. To the extent that order flow, which adds liquidity, is increased by the proposal, OTPs will be encouraged to compete for the opportunity to trade on the Exchange, including by sending additional order flow to the Exchange to achieve higher tiers or enhanced rebates. The resulting increased volume and liquidity would benefit all Exchange participants by providing more trading opportunities and tighter spreads.

The Exchange also believes the proposed SPY incentive is not unfairly discriminatory to non-Market Markers (*i.e.,* Customers, Professionals Customers, Firms and Broker-Dealers) because such market participants are not subject to the burdens and heightened obligations that apply to Market Makers, such as burdensome quoting obligations and costs related to market making activities. The Exchange believes the proposed incentive is reasonable, equitable and not unfairly discriminatory because encouraging Market Makers to direct more volume to the Exchange would also contribute to the Exchange's depth of book as well as to the top of book liquidity.

The Exchange also notes that the proposed credit for posting in SPY is reasonable, equitable, and not unfairly discriminatory as it is consistent with credits offered to Market Makers by other options exchanges.[8]

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would encourage competition, including by attracting additional liquidity to the Exchange, which would continue to make the Exchange a more competitive venue for, among other things, order execution and price discovery. The Exchange does not believe that the proposed change would impair the ability of any market participants or competing order execution venues to maintain their competitive standing in the financial markets. Further, the incentive would not impose an unfair burden on non-Market Markers because such market participants are not subject to the burdens and heightened obligations that apply to Market Makers.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[7] *See* proposed Fee Schedule, Market Maker Incentive for SPY (including reference to Endnote 8, which sets forth the calculations for monthly posting credits).

[8] *See, e.g.,* MIAX Pearl Fee Schedule, Section 1.a., Transaction Rebates/Fees, Exchange Rebates/Fees—Add/Remove Tiered Rebates/Fees, *available here, https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_PEARL_Fee_Schedule_03082018.pdf* (providing an alternative basis to achieve a $0.47 per contract credit in Penny Pilot Issues based on a specified level of SPY volume).

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2018–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–NYSEArca–2018–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2018–29, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10262 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83193; File No. SR–NASDAQ–2018–036]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reorganize and Amend The Nasdaq Options Market LLC Chapter XV, Section 3, Entitled "Nasdaq Options Market—Ports and Other Services

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reorganize and amend The Nasdaq Options Market LLC (''NOM'') Chapter XV, Section 3, entitled ''Nasdaq Options Market—Ports and Other Services.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reorganize and amend Chapter XV, Section 3, entitled ''Nasdaq Options Market—Ports and Other Services.'' The Exchange offers various services across its 6 affiliated options markets, NOM, Nasdaq BX, Inc., Nasdaq Phlx LLC, Nasdaq ISE, LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC (''Nasdaq Affiliated Markets'').[3] The Exchange desires to rename services to conform the naming of the offerings across all Nasdaq Affiliated Markets. The Exchange proposes to reorganize Section 3 to list order and quote protocols first, order and execution offerings next, followed by data ports and other ports as the last section. The Exchange proposes to list data offerings which are offered at no cost. The Exchange is also proposing to remove obsolete pricing. The Exchange believes that aligning its offerings, where relevant, across the Nasdaq Affiliated Markets will provide more transparency as to the offerings for market participants.

Ports

The Exchange proposes to define a port within Section 3 to provide additional clarity to the fee schedule as ''a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols.'' The Exchange believes this definition will assist Participants in distinguishing ports from other offerings.

Order and Quote Protocols

The Exchange proposes to add a new section (i) and include the following introductory sentence, ''The following order and quote protocols are available on NOM.''

Today, NOM offers market participants an Order Entry order protocol and an SQF quote protocol. These fees currently exist on the fee schedule. The Exchange is not amending any pricing related to these protocols. The Exchange proposes to rename ''Order Entry Port Fee'' as ''FIX Port Fee.'' This description is more accurate as ''FIX'' is the name of the

[3] The Exchange will file a similar rule change on each Nasdaq Affiliated Market to conform the offerings by amending naming to make them similar and delineating each offering on the fee schedule where no fee is assessed.

order entry protocol. Nasdaq ISE LLC uses the terminology ''FIX'' within its fee schedule.[4] A Participant may request an SQF Port or an SQF Purge Port, the pricing is the same for these ports.[5] SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. The SQF Purge port only receives and notifies of purge requests from the market maker. The proposal is to include a line item for each offering because a Participant may either select an SQF port or an SQF Purge Port. The price does not vary. The Exchange separately lists these offerings on Nasdaq ISE, LLC. A separate line item will make clear that there are two options for this offering. The pricing for these ports is not being amended.

The Exchange believes that grouping the available order and quote protocols together into their own subsection will provide greater transparency within its fee schedule as to the available protocols.

Order and Execution Information

The Exchange proposes to add a new section (ii) and add the following introductory sentence, ''The following order and execution information is available to Participants.'' The Exchange proposes to group the available order and execution information that is particular to a Participant's executions on NOM into its own subsection. Today, NOM offers CTI, Order Entry DROP, TradeInfo and OTTO DROP. The Exchange proposes to rename ''Order Entry DROP'' as ''FIX DROP'' for the reasons described above. Nasdaq ISE, LLC uses the term FIX DROP. The Exchange proposes to rename ''TradeInfo'' as ''NOM TradeInfo Interface'' to make clear that this particular offering is an interface. The Exchange proposes to relocate these current fees into section (ii). No changes are being made to pricing and these fees exist today within Section 3.

Data Ports

The Exchange proposes to add a new section (iii) and include the following information, ''The following data ports fees apply in connection with data subscriptions pursuant to NOM Rules at Chapter XV, Section 4. The below port fees do not apply if the subscription is delivered via multicast.'' The following sentence is simply being relocated, ''These ports are available to non-NOM Participants and NOM Participants.'' The Exchange believes the addition of these sentences makes clear where the related applicable data fees can be located and when the fees for ports are charged. The Exchange notes that if the subscription is delivered via multicast, the port fee is not charged. There are multiple ways in which data can be communicated. Multicast refers to sending data across a network to several users as [sic] a time. Unicast on the other hand sends data across a network to a single recipient. Finally, TCP, which stands for Transmission Control Protocol and is also known as ''TCP/IP'' refers to the suite which includes the internet Protocol, provides host-to-host connectivity. Today, the Exchange requires a port when a Participant utilizes Unicast and TCP/IP delivery, but does not require a port when a Participant selects multicast delivery. The Exchange believes this additional information will add more transparency to the fee schedule for Participants selecting data transmission options. The Exchange notes the current offerings for NOM, ITTO and BONO, are being relocated within this section. No changes are being made to the fees.

Other Ports

The Exchange proposes to adopt a new section (iv) entitled ''Other Ports'' to include Disaster Recovery Ports. Today, the Exchange offers Disaster Recovery Ports for all ports reorganized into proposed subsections (i), (ii) and (iii). The Exchange is noting that these ports are available at no cost to make clear their availability.

ITTO Wave Ports

Today, the Exchange offers Remote ITCH to Trade Options (ITTO) Wave Ports. These ports are subject to a 30-day testing period during which the recurring monthly fees are waived, and a one-year minimum purchase period that begins at the conclusion of the 30-day testing period at the below rates:

Location	Installation fee	Recurring monthly fee
Secaucus	$2,500	$7,500
Mahwah	5,000	10,000

NOM no longer offers these ITTO Wave Ports to its Participants. The Exchange proposes to eliminate these fees from the fee schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on NOM. The Exchange's proposal to reorganize Section 3 and rename certain offerings to conform to other Nasdaq Affiliated Markets will provide clarity as to the offerings and uniformity in naming similar offerings. The Exchange believes that its new structure makes clear the differences in its offerings and the availability of various options within each type of offering. The Exchange's proposal is consistent with the protection of investors and the public interest in that the proposal provides greater transparency as to the offerings, the application of fees and the availability of offerings which are offered at no cost. The Exchange's proposal to define a port should also provide market participants with greater insight into the terminology utilized within Section 3.

Finally, the Exchange's proposal to eliminate ITTO Wave Ports is consistent with the Act because these ports are no longer offered to any Participant and removing the fees will eliminate confusion as to the Exchange's current offering.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will

[4] *See* ISE fee schedule at Chapter V, D.

[5] Pricing is incremental for these ports. Pricing is based on the number of ports that a Participant has subscribed to in a given month.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(8).

impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on NOM. The offerings are available to all Participants. The Exchange does not intend to amend pricing, rather it proposes to make clear the application of the current pricing.

With respect to the ITTO Wave Ports, no Participant utilizes these services today. Eliminating these fees will avoid confusion as to the Exchange's current offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [11] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more detailed and reorganized information regarding its offerings and further the protection of investors and the public interest because it will provide greater transparency as to the offerings available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[13]

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–NASDAQ–2018–036 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–036. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–036, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10253 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33092; 812–14869]

U.S. Global Investors, Inc. et al.

May 9, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act. The requested order would permit (a) actively-managed series of certain open-end management investment companies (''Funds'') to issue shares redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Fund shares to occur at

negotiated market prices rather than at net asset value (''NAV''); (c) certain Funds to pay redemption proceeds, under certain circumstances, more than seven days after the tender of shares for redemption; (d) certain affiliated persons of a Fund to deposit securities into, and receive securities from, the Fund in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Funds (''Funds of Funds'') to acquire shares of the Funds; and (f) certain Funds (''Feeder Funds'') to create and redeem Creation Units in-kind in a master-feeder structure.

APPLICANTS: U.S. Global Investors ETF Trust (''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and U.S. Global Investors, Inc. (''Initial Adviser''), a Texas corporation that is registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on January 22, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on June 4, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Susan McGee, U.S. Global Investors, Inc., 7900 Callaghan Road, San Antonio, Texas 78229–2327 and Stacy L. Fuller, Esq., K&L Gates LLP, 1601 K Street NW, Washington, DC 20006–1600.

FOR FURTHER INFORMATION CONTACT: Erin C. Loomis, Senior Counsel, at (202) 551–6721 or Parisa Haghshenas, Branch Chief, at (202) 551–6723 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order that would allow Funds to operate as actively-managed exchange traded funds (''ETFs'').[1] Fund shares will be purchased and redeemed at their NAV in Creation Units only. All orders to purchase Creation Units and all redemption requests will be placed by or through an ''Authorized Participant'', which will have signed a participant agreement with the distributor. Shares will be listed and traded individually on a national securities exchange, where share prices will be based on the current bid/offer market. Certain Funds may operate as Feeder Funds in a master-feeder structure. Any order granting the requested relief would be subject to the terms and conditions stated in the application.

2. Each Fund will consist of a portfolio of securities and other assets and investment positions (''Portfolio Instruments''). Each Fund will disclose on its website the identities and quantities of the Portfolio Instruments that will form the basis for the Fund's calculation of NAV at the end of the day.

3. Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified in the application, purchasers will be required to purchase Creation Units by depositing specified instruments (''Deposit Instruments''), and shareholders redeeming their shares will receive specified instruments (''Redemption Instruments''). The Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) except as specified in the application.

4. Because shares will not be individually redeemable, applicants request an exemption from section 5(a)(1) and section 2(a)(32) of the Act that would permit the Funds to register as open-end management investment companies and issue shares that are redeemable in Creation Units only.

5. Applicants also request an exemption from section 22(d) of the Act and rule 22c–1 under the Act as secondary market trading in shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Applicants state that (a) secondary market trading in shares does not involve a Fund as a party and will not result in dilution of an investment in shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants represent that share market prices will be disciplined by arbitrage opportunities, which should prevent shares from trading at a material discount or premium from NAV.

6. With respect to Funds that hold non-U.S. Portfolio Instruments and that effect creations and redemptions of Creation Units in kind, applicants request relief from the requirement imposed by section 22(e) in order to allow such Funds to pay redemption proceeds within fifteen calendar days following the tender of Creation Units for redemption. Applicants assert that the requested relief would not be inconsistent with the spirit and intent of section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds.

7. Applicants request an exemption to permit Funds of Funds to acquire Fund shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any broker or dealer registered under the Securities Exchange Act of 1934, to sell shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The application's terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over a Fund through control or voting power, or in connection with certain services, transactions, and

[1] Applicants request that the order apply to the new series of the Trust as well as to additional series of the Trust and any other open-end management investment company or series thereof that currently exist or that may be created in the future (each, included in the term ''Fund''), each of which will operate as an actively-managed ETF. Any Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each such entity and any successor thereto is included in the term ''Adviser'') and (b) comply with the terms and conditions of the application.

underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A) and (B) of the Act.

8. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act to permit persons that are affiliated persons, or second tier affiliates, of the Funds, solely by virtue of certain ownership interests, to effectuate purchases and redemptions in-kind. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions of Creation Units will be the same for all purchases and redemptions and Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the Funds. Applicants also seek relief from the prohibitions on affiliated transactions in section 17(a) to permit a Fund to sell its shares to and redeem its shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[2] The purchase of Creation Units by a Fund of Funds directly from a Fund will be accomplished in accordance with the policies of the Fund of Funds and will be based on the NAVs of the Funds.

9. Applicants also request relief to permit a Feeder Fund to acquire shares of another registered investment company managed by the Adviser having substantially the same investment objectives as the Feeder Fund (''Master Fund'') beyond the limitations in section 12(d)(1)(A) and permit the Master Fund, and any principal underwriter for the Master Fund, to sell shares of the Master Fund to the Feeder Fund beyond the limitations in section 12(d)(1)(B).

10. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10245 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[2] The requested relief would apply to direct sales of shares in Creation Units by a Fund to a Fund of Funds and redemptions of those shares. Applicants, moreover, are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or a second-tier affiliate, of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83195; File No. SR–Phlx–2018–35]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Zero-Bid Option Series

May 9, 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 27, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to relocate the rule text relating to zero-bid option series currently located at Rule 1080(i) to new Rule 1035 and amend the current rule text to describe the current operation of a zero bid series.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to relocate the zero-bid options series rule text currently located in Rule 1080(i) to Rule 1035, which is currently reserved. The Exchange desires to rename Rule 1035 as ''Zero-Bid Option Series.'' The Exchange believes it will make it easier to locate this rule text in a separate rule. The Exchange also proposes to amend the current rule text which does not accurately describe the operation of the System.

Current Rule 1080(i) states that the System[3] will convert market orders to sell a particular option series to limit orders to sell with a limit price of the minimum trading increment applicable to such series that are received when, for options listed only on the Exchange, (1) the Exchange's disseminated bid price in such option series is zero;[4] and (2) the Exchange's disseminated quotation in the series has a bid/ask differential less than or equal to $0.25. For options that are listed on multiple exchanges: (1) The disseminated NBBO includes a bid price of zero in the series; and (2) the Exchange's disseminated quotation in the series has a bid/ask differential less than or equal to $0.25. Such orders will be automatically placed on the limit order book in price-time priority.

Background

The Exchange adopted Rule 1080(i) in 2005 to permit Phlx's former order entry system, AUTOM, to automatically

[3] The current rule refers to the ''AUTOM System''. The term ''AUTOM'' is outdated and is being removed from the rule.

[4] A zero bid refers to an option where the bid price is $0.00.

convert market orders to sell when the bid price is zero to limit orders to sell with a limit price of $.05.[5] The Adopting Filing also noted that market orders to sell, as well as limit orders to sell, would be placed on the limit order book in price-time priority in an effort to reduce the manual handling of such orders and automate the processing of market orders to sell when the Exchange's bid price is zero.[6] The Adopting Filing noted that the provision established the time priority of market orders to sell when the bid price in the particular series is zero (and thus no execution could occur). The Adopting Filing provided that in the event that the bid price in the particular series becomes $.05 or greater, thus establishing a bid price that makes the booked limit orders to sell marketable, such orders to sell at the $.05 limit price or better would be executed in the order in which they were received (*i.e.,* price-time priority).

Thereafter, in 2006, Phlx amended Rule 1080(i) to limit the circumstances in which the Exchange's trading system, as it existed in 2006, would convert a market order to sell into a limit order to sell a zero-bid option at $ 0.05.[7] Since the Adopting Filing, the Exchange concluded that not all options with a zero bid are the same. With the adoption of zero bid, the Exchange treated options that have an offer price of a few dollars on the Exchange, as well as options that are not ''zero-bid'' on other exchanges, as zero-bid options. The Subsequent Filing outlined additional factors that the Exchange would consider when determining whether an option is a zero-bid option for purposes of Rule 1080(i), including the Exchange's bid/ask differential and the NBBO. The Exchange noted in the Subsequent Filing that the new criteria would clarify when an option is truly a zero-bid option for which orders in that option should be subject to automated handling versus orders for non-zero-bid options that would require manual handling. The Exchange also noted in the Subsequent Filing that taking the bid/ask differential into consideration would help limit the conversion of market orders to sell to only those for true zero-bid options, because options with an offer higher than $0.25 are likely not to be worthless options. Similarly, for options traded on more than one exchange, the NBBO is relevant for validating whether an option truly is a zero-bid option.

The Exchange notes that the System checked the bid/ask differential less than or equal to $0.25 as mentioned in 1080(i)(A)(2) and 1080(i)(B)(2)[8] until such time as the Exchange eliminated Market Exhaust[9] in connection with other enhancements to the Phlx XL automated trading system, which was adopted in 2008. The Exchange discontinued Market Exhaust in 2011.[10] Once Market Exhaust was discontinued on the Exchange, Phlx noted that orders received, when there are no participant quotations in the Exchange's disseminated market for the affected series, would be handled in accordance with existing Exchange rules regarding electronic order entry, execution, routing, trade reporting, and firm quotations, which included Rule 1080(i) regarding zero bid. At that time, Phlx also amended Rule 1082(a)(ii)(B)(4) by adopting Rule 1082(a)(ii)(B)(4)(a), which provided that, if there are no offers both on the Exchange and on away markets in the affected series, market orders to buy in the affected series would be cancelled immediately, and an electronic report of such cancellation will be transmitted to the sender. The Exchange would cancel such a market order because in this rare circumstance there would be no disseminated market on the Exchange and no disseminated market on any away market against which such market order could be routed and executed, and there would be no price at which the Exchange could place such a market order on the Exchange's limit order book.[11] Pursuant to the 2012 rule change which eliminated Market Exhaust functionality, Rule 1082(a)(ii)(B)(4)(c) addressed the System's functionality in the circumstance where there are no bids or a zero priced bid on the Exchange and there are no bids on away markets in the affected series. In such a circumstance, the Exchange would disseminate a bid price of zero, and market orders to sell will be handled pursuant to Exchange Rule 1080(i).

At this time, the Exchange proposes to remove the bid/ask differential and NBBO checks mentioned in 1080(i)(A)(2) and 1080(i)(B)(2) and instead, where the bid price for any options series is $0.00, convert market orders to sell to limit orders regardless of the bid/ask differential and NBBO. The Exchange no longer manually handles orders. The Exchange's System automatically handles all zero-bid options. The Exchange believes that all zero bid options should be uniformly treated in the same manner and have an equal opportunity to execute on Phlx. While options with an offer which is lower than $0.25 continue to be likely to be worthless options, the Exchange does not believe those zero-bid options entered by market participants should be treated in a disparate matter as compared to those zero bid options with an offer higher than $0.25. Further, where the disseminated NBBO includes a bid price of zero the Exchange proposes to similarly convert these market orders to limit orders as proposed. The Exchange intends to accept and convert market orders to sell allowing them an equal opportunity to trade if interest should arrive in the case of a no bid option. The Exchange notes that the orders would rest on the Order Book at the minimum price increment. The Exchange proposes to amend the rule to state, similar to Nasdaq ISE LLC's (''ISE'') Rule 713, ''In the case where the bid price for any options series is $0.00, a market order accepted into the System to sell that series shall be considered a limit order to sell at a price equal to the minimum trading increment as defined in Rule 1034.'' Phlx is specifically utilizing the words ''accepted into the System'' to account for market orders that may not be accepted into the System due to Limit Up-Limit Down restrictions which may prevent the market order from being accepted. The Limit Up-Limit Down requirements must be met first before

[5] *See* Securities Exchange Act Release No. 51352 (March 9, 2005), 70 FR 12935 (March 16, 2005) (SR–Phlx–2005–03) (''Adopting Filing'').

[6] Former Phlx Rule 1080(c)(iv)(G) provided that sell orders received in a particular series in which the disseminated bid price is zero were handled manually by the specialist. The Adopting Filing was intended to eliminate the manual handling of orders by automating this process.

[7] *See* Securities Exchange Act Release No. 53822 (May 17, 2006), 71 FR 29701 (May 23, 2006) (SR–Phlx–2006–32) (''Subsequent Filing'').

[8] The Exchange notes that it provided notice to members of the manner in which the functionality operated. *See* Options Trader Alert 2015–38.

[9] PHLX XL, the Exchange's INET proprietary trading system which was established in 2008, initiated Market Exhaust when there were no PHLX XL participant quotations in the Exchange's disseminated market for a particular series and an initiating order in the series is received. The system initiated a ''Market Exhaust Auction'' for the initiating order, and then went through a series of steps depending on the market conditions present for the affected series, including a broadcast to participants, execution of all or part of the initiating order, routing the initiating order (or remaining contracts following execution) to better priced away markets, and a ''Provisional Auction,'' after which any unexecuted contracts from the initiating order was subject to, and not executable outside of, an Auction Quote Range. *See* Securities Exchange Act Release No. 66087 (January 3, 2012), 77 FR 1095 (January 9, 2012) (SR–Phlx–2011–182).

[10] The Exchange determined that Market Exhaust only affected a small number of orders, given the specific set of circumstances that must occur in order for Market Exhaust to be initiated. *See* Securities Exchange Act Release No. 66087 (January 3, 2012), 77 FR 1095 (January 9, 2012) (SR–Phlx–2011–182).

[11] *See* Securities Exchange Act Release No. 66087 (January 3, 2012), 77 FR 1095 (January 9, 2012) (SR–Phlx–2011–182).

the proposed rule would apply. Only after acceptance into the System will market orders be treated as a sell limit order at a price equal to the minimum trading increment. Further, the Exchange proposes to continue to provide that orders will be automatically placed on the limit order book in price-time priority, but proposes to restate this sentence for clarity, to make clear that ''Orders will be placed on the limit order book in the order in which they were received by the System.'' [12] The Exchange proposes to note that with respect to market orders to sell in zero bid options which are submitted prior to the Opening Process and persist after the Opening Process, those orders are posted at a price equal to the minimum trading increment as defined in Rule 1034.[13] The Exchange notes that it has posted market orders to sell in zero bid options which are submitted prior to the Opening Process and persist after the Opening Process in this fashion since the Exchange introduced the Opening Process. This detail was not included in the rule. The Exchange proposes to add this detail to provide market participants with greater insight into the handling of orders where there is a zero bid. The Exchange believes that this proposed amendment will accurately describe the manner in which a zero-bid options series operates within the System both before and after the Opening Process.[14]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5) of the Act,[16] in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest by amending the text of zero-bid options series to accurately describe the manner in which the System handles these types of orders.

The Exchange believes that eliminating the System check for bid/ask differentials less than or equal to $0.25 and NBBO as mentioned in 1080(i)(A)(2) and 1080(i)(B)(2), is consistent with the Act because the Exchange is treating all market orders to sell in zero bid options, regardless of the bid/ask differential, in the same fashion by converting all those orders, provided that the Exchange's disseminated bid price in such option is zero for an option listed only on the Exchange or, for an option listed on multiple exchanges and the disseminated NBBO includes a bid price of zero in the series. The Exchange no longer handles orders manually. All orders are automatically handled by the Exchange's System. The proposed Phlx rule text proposes to continue to provide that such orders will be automatically placed on the limit order book in price-time priority but restates this language to make clear that the market orders to sell in zero bid options will be placed on the limit order book in the order in which they were received by the System. While the Exchange notes that offers higher than $0.25 are likely not to be worthless options, nonetheless the Exchange would permit the order to rest on the Order Book at the minimum price increment and permit that market order to have the same opportunities for execution as offers lower than $0.25. The Exchange desires to prevent members from submitting market orders to sell in no bid series, which would execute at a price of $0.00. The Exchange believes that the proposed rule will achieve this objective and continue to permit the Exchange to execute orders within its System at prices which reflect some value. The Exchange believes that its proposal is consistent with the Act because it is in the interest of market participants to have these order executed regardless of the bid/ask differential or NBBO, provided that the Exchange's disseminated bid price in such option is zero for any option, regardless of where the option is listed.

The Exchange's proposal to add rule text regarding market orders to sell in zero bid options submitted prior to the Opening Process and persisting after the Opening Process is consistent with the Act because it provides more transparency as to the operation of this rule and as to how those market orders to sell in zero bid options will be handled by the System. Further, the Exchange believes that memorializing its current practice within the rule text will bring more clarity to the manner in which the zero bid rule operates to the benefits of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed amendments do not impose an undue burden on competition because the proposed rule change will continue to apply uniformly for all market participants who enter market orders to sell into the System when there is a zero-bid.

Sell market orders in zero bid options will continue to be placed on the limit order book in price-time priority. The Exchange does not believe that no longer considering the bid/ask differential and the NBBO when determining when to convert sell market orders in zero bid options to limit orders and instead convert all sell market orders in zero bid options will impose an undue burden on competition because the Exchange will treat all sell market orders in zero bid options in a uniform fashion. The proposed rule will permit market orders to sell in zero bid options to have the same opportunities for execution as offers with lower than $0.25 and regardless of the NBBO. The Exchange's proposal to add rule text regarding market orders to sell submitted prior to the Opening Process and persisting after the Opening Process does not impose an undue burden on competition, rather this proposal provides more transparency as to the operation of this rule and as to how those market orders to sell in zero bid options will be handled by the System.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) Impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the

[12] The time of receipt for an order is the time such message is processed by the System.

[13] Phlx Rule 1034, entitled ''Minimum Increments'' provides for the minimum increments of trading.

[14] The Exchange's Opening Process is described in Rule 1017.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Act[19] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[20] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that waiver of the operative delay would allow the Exchange to update its rules to immediately reflect the correct operation of zero-bid series on Phlx. Therefore, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[21]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2018–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–35, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

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[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83201; File No. SR–C2–2018–006]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend its Fees Schedule, Including Connectivity Fees, in Connection with its Technology Migration

May 9, 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 27, 2018, Cboe C2 Exchange, Inc. (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule in connection with the technology migration of C2 onto the options platform of the Exchange's affiliated options exchanges, Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options'') and Cboe BZX Exchange, Inc. (''BZX'' or ''BZX Options'').

The text of the proposed rule change is also available on the Exchange's website (*http://www.c2exchange.com/Legal/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 2016, the Exchange's parent company, Cboe Global Markets, Inc., which is also the parent company of Cboe Exchange, Inc. (''Cboe Options''), acquired EDGX and BZX and its affiliated exchanges, Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe BYX Exchange, Inc. (''BYX''). C2 intends to migrate its technology onto the same trading platform as BZX, BYX, EDGA and BZX (''Affiliated Exchanges'') on May 14, 2018 (the ''migration''). The Exchange proposes to amend certain fees in the Fees Schedule and adopt new connectivity fees, effective May 1, 2018.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Physical Connectivity

A physical port is utilized by a Trading Permit Holder (''TPH'') or non-TPH to connect to the Exchange at the data centers where the Exchange's servers are located. The Exchange currently assesses fees for Network Access Ports for these physical connections to the Exchange. Specifically, TPHs and non-TPHs can elect to connect to C2's trading system via either a 1 gigabit per second (''Gbps'') Network Access Port or a 10 Gbps Network Access Port. The Exchange currently assesses a monthly fee of $500 per port for 1 Gbps Network Access Ports and a monthly fee of $1,000 per port for 10 Gbps Network Access Ports. Through June 30, 2018, C2 market participants will continue to have the ability to connect to C2's trading system via the current Network Access Ports. For the month of May 2018, the Exchange will continue to assess the current fee for any Network Access Port a TPH or non-TPH uses during the month of May.

Effective May 14, 2018, in connection with the migration, TPHs and non-TPHs may alternatively elect to connect to C2 via new Physical Ports.[3] The new Physical Ports will similarly allow TPHs and non-TPHs the ability to connect to the Exchange at the data centers where the Exchange's servers are located and TPHs and non-TPHs will have the option to connect via 1 Gbps or 10 Gbps Physical Ports. The Exchange proposes to assess a monthly fee of $2,000 per port for 1 Gbps Physical Ports and a monthly fee of $7,000 per port for 10 Gbps Physical Ports. The new Physical Port fees will be prorated based on the remaining trading days in the calendar month. The Exchange notes that the new Physical Ports may also be used to connect to BZX, BYX, EDGX, and EDGA. The Exchange proposes to provide that market participants will only be assessed a single fee for any Physical Port that also accesses these exchanges.[4] The Exchange will pass-through in full any fees or costs in excess of $1,000 incurred by the Exchange to complete a cross-connect between exchanges. The Exchange notes that the proposed physical connectivity ports and corresponding fees are identical to the ports and fees assessed by its Affiliated Exchanges.[5]

Logical Connectivity

Next, the Exchange proposes to amend its login fees. Currently, C2 market participants may access Cboe Command via either a CMI or a FIX Port, depending on how their systems are configured. The Exchange currently assesses monthly fees for each CMI and FIX Login ID a market participant has. Specifically, the Exchange assesses $550 per Login ID, per month for CMI Login IDs and FIX Login IDs. Effective May 14, 2018, market participants will no longer be able to use CMI and FIX Login IDs. Rather, the Exchange will utilize a variety of logical connectivity ports as further described below. Similar to the legacy CMI and FIX Login IDs, a logical port provides users with the ability within the Exchange's system to accomplish a specific function through a connection, such as order entry, data receipt, or access to information. In light of the upcoming discontinuation of CMI and FIX Login IDs, the Exchange proposes to eliminate the fees associated with the login IDs effective May 1, 2018 and adopt the below pricing for logical connectivity in it [sic] place.

Service	Cost per month
Logical Ports (BOE, FIX, Drop).	$650 per port
Bulk BOE Ports 1–5	1,500 per port
Bulk BOE Ports >5	2,500 per port
Purge ports	750 per port
GRP Ports	650/primary (A or C Feed)
Multicast PITCH/Top Spin Server Ports.	650/set of primary (A or C feed)

Logical Ports (BOE, FIX, Drop): The new Logical Ports represents ports established by the Exchange within the Exchange's system for trading purposes. Each Logical Port established is specific to a TPH or non-TPH and grants that TPH or non-TPH the ability to operate a specific application, such as order entry (FIX and BOE Ports) or drop copies (Drop Ports). Logical Port fees are limited to Logical Ports in the Exchange's primary data center and no Logical Port fees are assessed for redundant secondary data center ports. The Exchange proposes to set the monthly port fee at $650 per port. Each BOE or FIX Logical Port will incur the logical port fee indicated in the table above when used to enter up to 20,000 orders per trading day per logical port as measured on average in a single month. Each incremental usage of up to 20,000 per day per logical port will incur an additional logical port fee of $650 per month. Incremental usage will be determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed BOE and FIX Logical Ports.[6] The Exchange believes that the pricing implications of going beyond 20,000 orders per trading day per Logical Port encourage users to mitigate message traffic as necessary. The Exchange notes that the proposed fee of $650 per port is in line with the fee assessed for similar ports on BZX Options.[7]

BOE Bulk Logical Ports: Post-migration, the Exchange will also offer BOE Bulk Logical Ports, which provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders designated as Post Only Orders with a Time-in-Force of Day or GTD with an expiration time on that trading day. As indicated above, BOE Bulk Logical Ports are assessed $1,500 per port, per month for the first 5 BOE Bulk Logical Ports and thereafter assessed $2,500 per port, per month for each additional BOE Bulk Logical Port. Each Bulk BOE Logical Port will incur the logical port fee indicated in the table above when used to enter up to 30,000,000 orders per trading day per logical port as measured on average in a single month. Each incremental usage of up to 30,000,000 orders per day per BOE Bulk Logical Port will incur an additional logical port fee of $2,500 per month. Incremental usage will be determined on a monthly basis based on the average orders per day entered in a single month across all of a market participant's subscribed BOE Bulk Logical Ports.[8] The Exchange believes that the pricing implications of going beyond 30,000,000 orders per trading day per BOE Bulk Logical Port encourage users to mitigate message

[3] As previously noted, market participants will continue to have the option of connecting to C2 via a 1 Gbps or 10 Gbps Network Access Port and would be assessed current rates of $500 and $1,000 per port, respectively.

[4] For example, if a market participant uses only one 10 Gbps port to connect to both EDGX and C2, the market participant would only be assessed one monthly fee of $7,000.

[5] *See* Cboe EDGA U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe EDGX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe BZX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe BYX U.S. Equities Exchange Fee Schedule, Physical Connectivity Fees; Cboe EDGX Options Exchange Fee Schedule, Physical Connectivity Fees; and Cboe BZX Options Exchange Fee Schedule, Physical Connectivity Fees (collectively, ''Affiliated Exchange Fee Schedules'').

[6] For May 2018, average daily order quantities used to determine incremental usage will be determined based on the number of trading days between May 14th and May 31st.

[7] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[8] For May 2018, average daily order quantities used to determine incremental usage will be determined based on the number of trading days between May 14th and May 31st.

traffic as necessary. The Exchange notes that the proposed BOE Bulk Logical Port fees are similar to the fees assessed for these ports by BZX Options.[9]

Purge Ports: As part of the migration, C2 will be introducing Purge Ports to provide TPHs additional risk management and open order control functionality. The proposed ports are designed to assist TPHs, in the management of, and risk control over, their quotes, particularly if the TPH is dealing with a large number of options. Particularly, Purge Ports will allow TPHs to submit a cancelation for all open orders, or a subset thereof, across multiple sessions under the same Executing Firm ID (''EFID''). As indicated in the table above, the Exchange proposes to assess a monthly charge of $750 per Purge Port. The Exchange notes that the proposed fee is identical to the fee assessed by BZX Options and EDGX Options for Purge Ports.[10]

Multicast PITCH/Top Spin Server and GRP Ports: In connection with the migration, the Exchange will also offer Multicast PITCH/Top Spin Server and GRP ports and proposes to assess $750 per month, per port. Multicast PITCH/Top Spin Server Ports and GRP Ports are used to request and receive a retransmission of data from the Exchange's Multicast PITCH/Top data feed. The Exchange's Multicast PITCH/Top data feed is available from two primary feeds, identified as the ''A feed'' and the ''C feed'', which contain the same information but differ only in the way such feeds are received. The Exchange also offers two redundant feeds, identified as the ''B feed'' and the ''D feed.'' All secondary feed Multicast PITCH/Top Spin Server and GRP Ports will be provided for redundancy at no additional cost. The Exchange notes that the proposed fee is in line with the fee assessed for the same ports on BZX Options.[11]

The Exchange proposes to provide for each of the logical connectivity fees that new requests will be prorated for the first month of service. Cancellation requests are billed in full month increments as firms are required to pay for the service for the remainder of the month, unless the session is terminated within the first month of service. The Exchange notes that the proration policy is the same on its Affiliated Exchanges.[12] The Exchange also proposes to make clear in the Fees Schedule that port fees for BOE, FIX, BOE Bulk and Drop ports will be assessed the full month rates for May for ports available for use on the new trading platform beginning May 14, 2018. The port fees for BOE, FIX, BOE BULK and Drop ports added on or after May 15, 2018, will be pro-rated. The Exchange notes that BOE, FIX, Drop and BOE Bulk ports offer similar functionality as current CMI and FIX Login Ids. As such, in lieu of assessing the current CMI and FIX Login Id fees for the month of May, the Exchange proposes to assess the proposed Logical Ports and BOE Bulk Port fees at the full rate for the month of May for any of these ports subscribed to on the date of the migration (May 14, 2018).

Access Fees

Currently, the Exchange assesses $5,000 per month for a Market-Maker Permit and $1,000 per month for an Electronic Access Permit. Market-Maker Permits entitle the holder to act as a Market-Maker and also provides an appointment credit, quote and order bandwidth allowance and a login allowance. Electronic Access Permits entitle the holder to access the Exchange and also provides an order entry bandwidth allowance and a login allowance. The Exchange notes that post-Migration, bandwidth allocation and logins will not be tied to a Permit, and as such, TPHs will no longer need to have multiple Permits for each type of Permit (*i.e.,* multiple Market-Maker Permits and/or and Electronic Access Permits).[13] The Exchange therefore proposes to provide that TPHs will only be assessed the monthly fee for each type of Permit once (*e.g.,* a TPH that holds only two Market-Maker Permits during the month of May would be assessed a total of $5,000 as and for Permit fees in May).

Bandwidth Packets

As described above, post-migration, the Exchange will utilize a variety of logical ports. Part of this functionality is similar to bandwidth packets currently available on C2. Bandwidth packets restrict the maximum number of orders and quotes per second. Post-migration, market participants may similarly have multiple Logical Ports and/or BOE Bulk Ports as they may have bandwidth packets to accommodate their order and quote entry needs. As such, the Exchange proposes to eliminate its current Supplemental Bandwidth Packet fees, effective May 1, 2018. The Exchange believes that the proposed pricing implications of going beyond specified bandwidth described above in the logical connectivity fees section will be able to otherwise mitigate message traffic as necessary.

CAS Servers

By way of background, in order to connect to Cboe Command, which allows a TPH to trade on the C2 System, a TPH must connect via either a CMI or FIX interface (depending on the configuration of the TPH's own systems). For TPHs that connect via a CMI interface, they must use CMI CAS Servers. In order to ensure that a CAS Server is not overburdened by quoting activity for Market-Makers, the Exchange currently allots each Market-Maker a certain number of CASs (in addition to the shared backups) based on the amount of quoting bandwidth that they have. Post-migration, the Exchange will no longer use CAS Servers. In light of the upcoming elimination of CAS Servers, the Exchange proposes to eliminate the CAS Server allotment table and extra CAS Server fee, effective May 1, 2018.

Exchange Data Reports

The Exchange proposes to eliminate Exchange Data Reports Fees as it no longer wishes to assess such fees. The Exchange notes that requests for reports and data from TPHs and non-TPHs will continue to be treated in a fair and efficient manner.

Miscellaneous Changes

The Exchange proposes to renumber the sections in the Fees Schedule in light of the elimination of certain sections (*e.g.,* Bandwidth Packet Fees and Exchange Data Reports). The Exchange also proposes to eliminate the Firm Designated Examining Authority Fee. The Exchange notes that C2 is not a Designated Examining Authority and as such the fee could not be assessed to firms. The Exchange proposes to eliminate the fee from the Fees Schedule to avoid potential confusion.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of

[9] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[10] *See* Cboe EDGX Options Exchange Fee Schedule, Options Logical Port Fees; and Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[11] *See* Cboe BZX Options Exchange Fee Schedule, Options Logical Port Fees.

[12] *See* Affiliated Exchange Fee Schedules, Logical Port Fees.

[13] The Exchange notes that TPHs do not need more than one Market-Maker Permit to accommodate all of the available appointments (*i.e.,* a Market-Maker may have appointments in each class offered on C2 and still be below the appointment cost of one Trading Permit).

Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[15] which provides that Exchange rules may provide for the equitable allocation of reasonable dues, fees, and other charges among its Permit Holders and other persons using its facilities. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Physical Connectivity

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess Network Access Port fees through May as market participants will still be able to utilize these ports throughout the month of May and the fee will apply to all TPHs and non-TPHs who use a Network Access Port. The Exchange believes the proposed post-migration Physical Port fees are reasonable because the Exchange is expending significant resources setting up physical connectivity in connection with the migration and will have ongoing costs associated with maintaining connectivity. The Exchange also notes that the proposed amounts are in line with the costs of physical connectivity at its Affiliated Exchanges.[17] Indeed, the Exchange also believes that it is reasonable and in the interest of the public and investors to harmonize the Exchange's connectivity options and connectivity fees once the Exchange is on a common platform of its Affiliated Exchanges. The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess a Physical Port fee only once if it connects with another affiliate exchange because only one port is being used and the Exchange does not wish to charge multiple fees for the same port. The Exchange also believes it's reasonable to pass-through in full any fees or costs in excess of $1,000.00 incurred by the Exchange to complete a cross-connect, because the Exchange is still subsidizing costs to enable cross-connects, just not amounts in excess of $1,000.

Logical Connectivity

The Exchange believes it's reasonable to eliminate certain fees associated with legacy options for connecting to the Exchange and to replace them with fees associated with new options for connecting to the Exchange that are similar to those offered at its Affiliated Exchanges. In particular, the Exchange believes it's reasonable to no longer assess fees for CMI and FIX Login IDs because the Login IDs will be retired and obsolete upon migration and because the Exchange is proposing to replace them with fees associated with the new logical connectivity options. The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies uniformly to market participants. The Exchange believes it's reasonable to assess the proposed fees for each of the new logical connectivity ports described above as the proposed fees help recoup costs setting up logical connectivity and also enables the Exchange to continue to maintain and improve its market technology and services. Additionally, the Exchange notes the proposed fees are the same as, or in line with, the fees assessed on its Affiliated Exchanges for similar connectivity.[18] As noted above, the Exchange also believes that it is reasonable and in the interest of the public and investors to harmonize the Exchange's logical connectivity options and corresponding connectivity fees once the Exchange is on a common platform as its Affiliated Exchanges. The proposed logical connectivity fees are also equitable and not unfairly discriminatory because the Exchange will apply the same fees to all market participants that use the same respective connectivity options.

Access Fees

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to assess an access fee only once for each kind of Permit, notwithstanding the number of Permits a TPH currently holds, because TPHs will be paying lower fees for access and the proposed change will apply uniformly to all TPHs. Additionally, the Exchange notes that currently, TPHs request additional Permits because of bandwidth and/or login needs. As described above, upon migration on May 14, 2018, bandwidth and logins will no longer be tied to Permits and as such, the need to hold multiple permits will be obsolete. Through May 14, 2018 however, TPHs may still need additional Permits and the Exchange does not wish to charge for those additional Permits.

Bandwidth Packets and CMI CAS Server Fees

The Exchange believes it's reasonable to eliminate Supplemental Bandwidth Packet fees and the CMI CAS Server fee because TPHs will not pay fees for these connectivity options and because bandwidth packets and CAS Servers will be retired and obsolete upon the upcoming migration. The Exchange believes that even though it will be discontinuing Supplemental Bandwidth Packets, the proposed incremental pricing for Logical Ports and BOE Bulk Ports will continue to encourage users to mitigate message traffic. The proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all TPHs.

Exchange Data Reports

The Exchange believes eliminating fees for Exchange Data Reports is reasonable, equitable and not unfairly discriminatory because TPHs and non-TPHs no longer have to pay fees for these reports and it applies to TPHs and non-TPHs uniformly. As noted above, requests for reports and data from TPHs and non-TPHs will continue to be treated in a fair and efficient manner.

Miscellaneous Changes

The Exchange believes the proposed rule change to renumber the sections in light of the elimination of certain sections (*e.g.,* Bandwidth Packet Fees and Exchange Data Reports) alleviates potential confusion. Similarly, the Exchange believes deleting the Firm Designated Examining Authority Fee from the Fees Schedule alleviates confusion as it eliminates a fee that is moot because it cannot be charged (as discussed, C2 is not a Designated Examining Authority). The alleviation of confusion removes impediments to and perfects the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from pricing offered by the Exchange's affiliates. Additionally, TPHs may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of TPHs or competing venues to maintain their competitive

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Affiliated Exchange Fee Schedules, Physical Connectivity Fees.

[18] *See* Affiliated Exchange Fee Schedules, Logical Port Fees.

standing in the financial markets. The Exchange believes that fees for connectivity are constrained by the robust competition for order flow among exchanges and non-exchange markets. Further, excessive fees for connectivity, would serve to impair an exchange's ability to compete for order flow rather than burdening competition. The Exchange also does not believe the proposed rule change would impact intramarket competition as it would apply to all TPHs and non-TPHs equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 [20] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–C2–2018–006 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2018–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2018–006 and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10261 Filed 5–14–18; 8:45 am]

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[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83205; File No. SR–CBOE–2018–008]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Flexibly Structured Options

May 9, 2018.

I. Introduction

On January 18, 2018, Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending Cboe Options's rules relating to the fungibility of Flexible Exchange Options (''FLEX Options''). The proposed rule change was published for comment in the **Federal Register** on February 8, 2018.[3] On March 23, 2018, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

In its filing, the Exchange proposed to amend Interpretation and Policy .02 to Rule 24A.4, which sets forth requirements relating to a FLEX Option that has the same terms as a Non-FLEX Option.[5]

First, Cboe Options has proposed to amend the rule to make all FLEX Options fungible with Non-FLEX Options that have identical terms.[6] Currently, FLEX Options that have quarterly expirations,[7] short term expirations,[8] weekly expirations,[9] and End of Month (''EOM'') expirations [10] are not fungible with Non-FLEX Options with identical terms.[11] The OCC

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82622 (Feb. 2, 2018), 83 FR 5668 (Feb. 8, 2018) (''Notice'').

[4] *See* Securities Exchange Act Release No. 82936 (Mar. 23, 2018), 83 FR 13552 (Mar. 29, 2018).

[5] *See* Cboe Options Rule 24A.1(q).

[6] *See* proposed Cboe Options Rule 24A.4.02(a) ('[t]his Interpretation and Policy shall apply to all FLEX Options'').

[7] *See* Cboe Options Rules 5.5(e), 24.9(a)(2)(B), and 24.9(c).

[8] *See* Cboe Options Rules 5.5(d) and 24.9(a)(2)(A).

[9] *See* Cboe Options Rule 24.9(e). These are currently traded pursuant to the Nonstandard Expirations Pilot Program.

[10] *Id.* These are also traded pursuant to the Nonstandard Expiration Pilot Program.

[11] Cboe Options states in its proposal that FLEX Options with these expirations were not originally intended to be fungible. *See* Securities Exchange Release Act Nos. 62658 (August 5, 2010), 75 FR 49010, 49011 n.8 (August 12, 2010) (SR–CBOE–2009–075) (notice). The notice states that FLEX Options do not become fungible with subsequently introduced Non-FLEX structured quarterly and short term options, and that they will not be with End of Week (''EOW'') and EOM expirations because of their similarities to the quarterly and short term options. EOW expirations are now called weekly expirations as Cboe Options Rule 24.9(e) was amended to include Monday and Wednesday expirations. *See also* Securities Exchange Release Act No. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (SR–CBOE–2009–075) (approval order).

currently prohibits fungibility in quarterly and short-term options,[12] so, as described in more detail below, Cboe Options proposes to delay the effectiveness of this proposed rule change to allow time for OCC to amend its bylaws.

Second, the Exchange has proposed to clarify that if the expiration date is an Exchange holiday, Cboe Options Rule 24A.4.02 shall designate the previous business day as the expiration date.[13] However, for weekly expirations that expire on a Monday that is an Exchange holiday,[14] Cboe Options Rule 24A.4.02 shall designate the business day that immediately follows the Exchange holiday as the expiration date.[15] According to the Exchange, the proposed rule is designed to clarify that when the expiration of a Non-FLEX Option is moved to the business day immediately before (or after) the Exchange holiday, the FLEX Option that also expires on the day before (or after) will be fungible with the Non-FLEX Option.[16]

Third, Cboe Options has proposed to clarify that in the event a Non-FLEX *American-style* series is added intra-day, a FLEX position is permitted to be closed using FLEX trading procedures for the balance of the trading day on which the Non-FLEX series is added against another closing only FLEX position.[17] The Exchange notes that when it was adopted, the Exchange intended to limit this provision to American-style exercises. According to the Exchange, American-style options face assignment risk because when a Non-FLEX Option is listed, the OCC cannot net the positions of the Non-FLEX Option and the FLEX Option with identical terms until the next business day.[18]

Fourth, the Exchange has proposed several non-substantive changes that are designed to make the text easier to read. The Exchange believes that such changes will clarify that the fungibility provisions apply to FLEX Options series with terms identical to the terms of a Non-FLEX Options series.[19]

Finally, the proposed rule text provides that the Exchange's current rule will remain in effect until the effective date specified by the Exchange in a Regulatory Circular.[20] The Regulatory Circular announcing the effective date shall be issued at least 30 days prior to the effective date[21] and such effective date shall be no later than July 31, 2018.[22] As noted in Cboe Options's proposal,[23] the delayed effectiveness is intended to allow OCC time to amend its bylaws to eliminate its current restriction on fungibility of certain options.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act[24] and the rules and regulations thereunder applicable to a national securities exchange.[25] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[26] which requires that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that the rules concerning the fungibility of certain FLEX Options and Non-FLEX Options were previously approved by the Commission.[27] The proposed rule change extends fungibility to quarterly expirations, short term expirations, and, to the nonstandard expiration pilot program weekly and EOM expirations. The Commission believes that amending Rule 24A.4.02 to allow these additional FLEX Options to become fungible with standardized options with identical terms could result in some benefits to FLEX Options participants in that it may potentially increase the liquidity available to traders of FLEX Options. As the Exchange noted in its rule proposal, this is because there are more market participants in the Non-FLEX Options and thus there is potentially more liquidity available to market participants with FLEX Options that will be able to exit their FLEX Options positions in the standardized Non-FLEX Option market.[28]

Because FLEX Options in quarterly, short term, weekly, and EOM expirations are not fungible with their Non-FLEX counterparts, parallel markets in these expirations exist—one FLEX and one Non-FLEX. The Commission previously stated that it is concerned that FLEX Options could act as a surrogate for trading in standardized options.[29] The Commission recognizes that the FLEX Options market is designed to combine the benefits of an auction market with the features of negotiated transactions, and therefore continuous quotes may not always be available. Permitting more expirations in FLEX Options to be fungible with their Non-FLEX counterparts could help to ensure that market participants cannot avoid the protections provided to investors in the standardized market for these expirations by trading FLEX Options. Specifically, once a Non-FLEX series is open for trading, new FLEX Options are not permitted in that series. In addition, once a Non-FLEX Options series is open, all outstanding FLEX Options in the same series become fungible with Non-FLEX Options in the standardized market, are traded pursuant to standardized market trading rules, and are aggregated for position and exercise limit purposes. Allowing these FLEX Options to be fungible with their Non-FLEX counterparts could potentially address some of these surrogacy concerns.

Nevertheless, the FLEX market was originally intended to allow customization of option terms that were not available in the standardized options. While this has evolved over time with the current fungibility provisions, as the additional classes of options noted above are allowed to become fungible with identical term standardized options, some of which have much shorter terms to expiration, we expect the Exchange to carefully monitor the fungible FLEX Options (and standardized options counterparts) to ensure that they are not being used in a way to trade ahead and/or gain an advantage over other market participants prior to the standardized

[12] *See* Article I of OCC By-Laws.

[13] *See* Proposed Cboe Options Rule 24A.4.02(a).

[14] *See* Cboe Options Rule 24.9(e)(1).

[15] *See* Proposed Cboe Options Rule 24A.4.02(a).

[16] *See* Notice, *supra* note 3, at 5669.

[17] *See* proposed Cboe Options Rule 24A.4.02(b).

[18] *See* Notice, *supra* note 3, at 5669 n.7. See also Securities Exchange Act Release No. 62870 (September 8, 2010), 75 FR 56147 (September 15, 2010) (SR–CBOE–2010–078) (stating that there is assignment risk for American-style options only). The Commission notes that an American-style option may be exercised at any time during its life, whereas, a European-style option may only be exercised at the end of its life.

[19] *See* Notice, *supra* note 3, at 5669.

[20] *Id.* at 5670.

[21] *Id.*

[22] *Id.*

[23] *Id.*

[24] 15 U.S.C. 78f.

[25] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78f(b)(5).

[27] *See* Securities Exchange Act Release No. 59417 (Feb. 18, 2009), 74 FR 8591 (Feb. 25, 2009) (SR–CBOE–2009–115).

[28] *See* Notice, *supra* note 3, at 5670.

[29] *See* 74 FR at 8593.

options becoming available to all market participants.

Furthermore, the Commission expects the Cboe Options to report any undue effects that may occur as a result of these fungibility rule changes, including taking prompt action should any unanticipated consequences occur. The Commission also expects, prior to the effective date of the new rule, the Exchange to address whether additional position limit aggregation rules should be adopted prior to the rule's delayed implementation date. We note that currently the FLEX rules require that certain FLEX Options positions be aggregated with the position limits in the standardized market.[30]

The Commission believes that the remaining proposed changes will help protect investors and the public interest by providing clarity and transparency to the rules. The proposed rule text regarding Exchange holidays will clarify the fungibility of FLEX Options with expiration dates on Exchange holidays and are consistent with the expiration of the same standardized options on Exchange holidays. Amending the intra-day add provision to state that it applies solely to American-style expirations will codify in the rule text the Exchange's original intent with respect to this provision. Further, the other non-substantive, clarifying changes will make the rule easier to read and understand.

Finally, as noted above the Exchange cannot actually implement this rule change immediately because OCC bylaws currently restrict fungibility of quarterly and short term options. The Commission believes that the delayed implementation date of July 31, 2018 should provide OCC with time to consider fungibility in quarterly and short-term options and determine whether to amend the OCC By-laws to accommodate the changes being adopted by the Exchange. The Exchange has also committed to announce the implementation of the change at least 30 days prior to the effective date pursuant to a Regulatory Circular, which should provide adequate advance notice to market participants. To the extent OCC is not able to implement a bylaw change at or prior to the July 31, 2018, we would expect the Exchange to amend its rules or extend the implementation date.

For the reasons above, the Commission finds that the proposed rule change is consistent with the Act.

[30] *See* Cboe Options Rule 24A.7, concerning FLEX position limits and reporting requirements.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–CBOE–2018–008) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10272 Filed 5–14–18; 8:45 am]

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[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83199; File No. SR–BX–2018–016]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Memorialize Its Order and Execution Information Into Chapter VI, Section 19, Entitled Data Feeds

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to a proposal to memorialize its order and execution information into Chapter VI, Section 19, entitled ''Data Feeds.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to memorialize its order and execution information into Chapter VI, Section 19, entitled ''Data Feeds.'' The Exchange proposes to rename this rule ''Data Feeds and Trade Information.'' The Exchange proposes other grammatical corrections in Section 19(a) as well.

Section 19(b)

First, the Exchange proposes to adopt a new Section 19(b) and memorialize the following order and execution information which were previously filed by the Exchange: (1) CTI;[3] (2) TradeInfo[4]; and (3) FIX DROP.[5]

The Exchange originally noted in the CTI and FIX DROP Filing that CTI offers real-time clearing trade updates.[6] The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The trade messages are routed to a member's connection containing certain information. The administrative and market event messages include, but are not limited to: System event messages to communicate operational-related events; options directory messages to relay basic option symbol and contract information for options traded on the Exchange; complex strategy messages to relay information for those strategies traded on the Exchange; trading action messages to inform market participants when a specific option or strategy is halted or released for trading on the Exchange; and an indicator which distinguishes electronic and non-electronically delivered orders.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 73894 (December 19, 2014), 79 FR 78119 (December 29, 1014) (SR–BX–2014–060) (''CTI and FIX DROP Filing'').

[4] *See* Securities Exchange Act Release No. 60826 (October 14, 2009), 74 FR 54605 (October 22, 2009) (SR–BX–2009–062) (''TradeInfo Filing'').

[5] *See* note 3 above.

[6] A real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. *See* Securities Exchange Act Release No. 73894 (December 19, 2014), 79 FR 78119 (December 29, 1014) (SR–BX–2014–060).

The Exchange is proposing to more specifically describe the CTI offering and memorialize it within Section 19(b)(1). The description provides more detail as to the current functionality of CTI, which is not changing. The description would continue to state that CTI is a real-time clearing trade update message that is sent to a Participant after an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. The Exchange proposes to not add the sentence which states, ''The message containing the trade details is also simultaneously sent to The Options Clearing Corporation.'' The Exchange's System sends clearing information to OCC for each transaction. This sentence does not add information that is useful or relevant and therefore the Exchange proposes to remove it. The Exchange notes that while the description is being amended, it retains more broadly the former descriptions. The information provided is specific to a market participant. The Exchange is expressing more specifically the type of data contained in CTI. The CTI offering is not changing. The Exchange is providing more details regarding the CTI offering than was originally filed in the CTI and FIX DROP Filing.

The Exchange originally noted in the TradeInfo Filing that TradeInfo allows subscribing members to scan for their orders submitted to BX. Members can scan for all orders in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.). Members are also able to cancel open orders at the order, port or MPID level (an MPID is a firm mnemonic). For example, after scanning for open orders, the member is then able to select an open order and cancel the order. TradeInfo BX also allows members to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders. TradeInfo BX enables members to generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review.

The Exchange proposes to amend and memorialize TradeInfo within Section 19(b)(2). The Exchange proposes to note that TradeInfo is a user interface, as compared to a data stream, to add more detail to the description. While some descriptive language is being removed from the rules, such as permitting a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders, the Exchange believes that this language is covered in the current description in that the text indicates that all orders may be searched regardless of their status. Similarly, the description which provides that a subscribing member may generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review is covered in that the Exchange notes that a view of the orders and execution may be downloaded.

The Exchange originally noted in its FIX DROP filing that the Order Entry DROP provides real time information regarding orders sent to BX and executions that occurred on BX. The DROP interface is not a trading interface and does not accept order messages. The ''Order Entry DROP'' interface is being renamed ''FIX DROP'' for clarity as it relates to FIX ports.

The Exchange is now expanding on the original description by providing more detail by stating that it is a real-time order and execution update message that is sent to a Participant after an order has been received/modified or an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (1) Executions; (2) cancellations; (3) modifications to an existing order (4) busts or post-trade corrections. The Exchange believes that the additional specificity will provide more information to Participants.

The Exchange considers it appropriate to memorialize the order and execution information available on BX within a rule so that Participants may understand the trade information which is available on the Exchange as it pertains to a firm's trading information. This data is available to all Participants regarding that Participant's transactions. Pricing for these products is included in the Exchange's fee schedule at Chapter XV, Section 3.[7]

Section 19(a)

The Exchange proposes minor changes to Section 19(a)(1) and (2) to change the language to indicate the BX Depth of Market and BX Top of Market each separately are data feeds and removing the ''A'' before the description.

[7] *See also* SR–BX–2018–017 (not yet published) which proposes conforming changes to the fee schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on BX. The Exchange notes that it described this information in prior rule changes.[10] The Exchange believes that memorializing this information within a rule and updating the information will provide market participants with a list of information available specific to their trading on BX. The Exchange believes that this proposal is consistent with the Act because it provides information on the content available to market participants regarding the trades they execute on BX.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[11] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on BX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] *See* notes 3 and 4 above.

[11] 15 U.S.C. 78f(b)(8).

consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

A proposed rule change filed under Rule 19b–4(f)(6) [9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more information regarding the order and execution information it offers and further the protection of investors and the public interest because it will provide greater transparency as to the trade detail available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[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.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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–BX–2018–016 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2018–016. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–016 and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10259 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–221, OMB Control No. 3235–0232]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form 1–E, Regulation E

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information of the Office of Management and Budget for extension and approval.

Form 1–E (17 CFR 239.200) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') is the form that a small business investment company (''SBIC'') or business development company (''BDC'') uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Rule 605 of Regulation E (17 CFR 230.605) under the Securities Act requires an SBIC or BDC claiming such an exemption to file an offering circular with the Commission that must also be provided to persons to whom an offer is made. Form 1–E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdictions in which the issuer intends to offer the securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1–E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the rule 605 offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1–E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. The Commission estimates that, each year, one issuer files one notification on Form 1–E, together with offering circulars,

with the Commission.[1] Based on the Commission's experience with disclosure documents, we estimate that the burden from compliance with Form 1–E and the offering circular requires approximately 100 hours per filing. The annual burden hours for compliance with Form 1–E and the offering circular would be 200 hours (2 responses × 100 hours per response). Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Acting Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10241 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[1] According to Commission records, one issuer filed two notifications on Form 1–E, together with offering circulars, during 2013 and 2014.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83194; File No. SR–Phlx–2018–34]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reorganize and Amend the Exchange's Pricing Schedule at Section VII, B, Entitled "Port Fees"

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reorganize and amend the Exchange's Pricing Schedule at Section VII, B, entitled ''Port Fees.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reorganize and amend the Exchange's Pricing Schedule at Section VII, B, entitled ''Port Fees.'' The Exchange offers various services across its 6 affiliated options markets, Phlx, Nasdaq BX, Inc., The Nasdaq Options Market LLC, Nasdaq ISE, LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC (''Nasdaq Affiliated Markets'').[3] The Exchange desires to rename services to conform the naming of the offerings across all Nasdaq Affiliated Markets. The Exchange proposes to reorganize Section VII, B to list order and quote protocols first, order and execution offerings next, followed by data ports and other ports as the last section. The Exchange proposes to list data offerings which are offered at no cost. The Exchange believes that aligning its offerings, where relevant, across the Nasdaq Affiliated Markets will provide more transparency as to the offerings for market participants.

Ports

The Exchange proposes to define a port within Section VII, B to provide additional clarity to the Pricing Schedule as ''a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols.'' The Exchange believes this definition will assist members in distinguishing ports from other offerings.

Order and Quote Protocols

The Exchange proposes to add a new section (i) and include the following introductory sentence, ''The following order and quote protocols are available on Phlx.''

Today, Phlx offers members an Order Entry order protocol, an Active SQF quote protocol as well as an SQF Purge Port. These fees currently exist on the Pricing Schedule. The Exchange is not amending any pricing related to these protocols. The Exchange proposes to rename ''Order Entry Port Fee'' as ''FIX Port Fee.'' This description is more accurate as ''FIX'' is the name of the order entry protocol. Nasdaq ISE, LLC calls this protocol ''FIX'' in its fee schedule.[4] The Exchange proposes to remove the word ''Active'' before SQF Port from the title of the offering. The term ''active'' refers to the manner in which the port is billed. For consistency the Exchange proposes to refer the SQF Port without the ''Active'' to conform the naming of the offering to that of the Nasdaq Affiliated Markets. The Exchange will continue to use the word ''active,'' which is proposed to be lowercase, to describe the manner in which the port will be billed. The Exchange proposes to define the term ''active'' to mean that the port was utilized to submit a quote to the System during a given month. The Exchange believes that this definition will provide greater transparency as to the manner in which the term ''active'' is applied today by the Exchange.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange will file a similar rule change on each Nasdaq Affiliated Market to conform the offerings by amending naming to make them similar and delineating each offering on the fee schedule where no fee is assessed.

[4] *See* ISE's Fee Schedule at Chapter V, Part D.

The Exchange believes that grouping the available order and quote protocols together into their own subsection will provide greater transparency within its Pricing Schedule as to the available protocols.

Order and Execution Information

The Exchange proposes to add a new section (ii) and add the following introductory sentence, ''The following order and execution information is available to members.'' The Exchange proposes to group the available order and execution information that is particular to a member's transactions on Phlx into its own subsection. Today, Phlx offers CTI and TradeInfo PHLX. The Exchange proposes to relocate the TradeInfo offering from Section XII of the Pricing Schedule to Section VII, B. The Exchange proposes to rename ''TradeInfo PHLX'' as ''TradeInfo Interface'' to conform the naming on the Nasdaq Affiliated Markets. This also makes clear that this particular offering is an interface. No changes are proposed to amend pricing for CTI or the TradeInfo offering. Finally, the Exchange proposes to delete the definition of the TradeInfo offering. The Exchange is instead defining this offering within Rule 1070(b).

Data Ports

The Exchange proposes to add a new section (iii) and include the following information, ''The following data port fees apply in connection with data subscriptions pursuant to Phlx's Pricing Schedule at Section IX. These ports are available to non-Phlx members and Phlx members.'' The Exchange believes the addition of this sentence makes clear where the related applicable data fees can be located within the Pricing Schedule. Today, no data port fees are listed on Phlx's Pricing Schedule as these services are offered at no cost. The Exchange proposes to list the relevant data ports which are offered today in order to provide information as to the available offerings. Today, the Exchange offers TOPO Ports, PHLX Orders Ports and PHLX Depth of Market Ports at no cost. The Exchange believes listing these offerings on the Pricing Schedule at $0 will add more transparency to the Pricing Schedule. No changes are being made to the fees.

Other Ports

The Exchange proposes to adopt a new section (iv) entitled ''Other Ports'' to include Disaster Recovery Ports. Today, the Exchange offers Disaster Recovery Ports for all the ports reorganized into proposed subsections (i), (ii) and (iii). The Exchange is noting that these ports are available at no cost to make clear their availability.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on Phlx. The Exchange's proposal to reorganize Section VII, B and rename certain offerings to conform to other Nasdaq Affiliated Markets will provide clarity as to the offerings and uniformity in naming similar offerings. The Exchange believes that its new structure makes clear the differences in its offerings and the availability of various options within each type of offering. The Exchange's proposal is consistent with the protection of investors and the public interest in that the proposal provides greater transparency as to the offerings, the application of fees and the availability of offerings which are offered at no cost. The Exchange's proposal to define a port should also provide members with greater insight into the terminology utilized within Section VII, B.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on Phlx. The offerings are available to all members. The Exchange does not intend to amend pricing, rather it proposes to make clear the application of the current pricing.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78f(b)(8).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more detailed and reorganized information regarding its offerings and further the protection of investors and the public interest because it will provide greater transparency as to the offerings available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[12]

At any time within 60 days of the filing of the proposed rule change, the

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–Phlx–2018–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–34, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10254 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 1:00 p.m. on Thursday, May 17, 2018.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: May 10, 2018.

Brent J. Fields,

Secretary.

[FR Doc. 2018–10395 Filed 5–11–18; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–318, OMB Control No. 3235–0361]

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:
Form ADV–E

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form ADV–E (17 CFR 279.8) is the cover sheet for certificates of accounting filed pursuant to rule 206(4)–2 under the Investment Advisers Act of 1940 (17 CFR 275.206(4)–2). The rule further requires that the public accountant file with the Commission a Form ADV–E and accompanying statement within four business days of the resignation, dismissal, removal or other termination of its engagement.

The Commission has estimated that compliance with the requirement to complete Form ADV–E imposes a total burden of approximately 0.05 hours (3 minutes) per respondent. Based on current information from advisers registered with the Commission, the Commission staff estimates that 1,749 filings will be submitted with respect to surprise examinations and 38 filings will be submitted with respect to termination of accountants. Based on these estimates, the total estimated annual burden would be 89.35 hours ((1,749 filings × .05 hours) + (38 filings × .05 hours)).

Written 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. An agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 9, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10231 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83203; File No. SR–NYSEAMER–2018–20]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Modify the NYSE American Options Fee Schedule

May 9, 2018.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on April 30, 2018, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify the NYSE American Options Fee Schedule (''Fee Schedule''). The Exchange proposes to implement the fee change effective May 1, 2018. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify the Fee Schedule, effective May 1, 2018. Specifically, the Exchange proposes to modify the Monthly Excessive Bandwidth Utilization Fees (''EBUF'').

Currently, EBUF is assessed to an ATP Holder for submitting orders in an order-to-execution ratio greater than 10,000 over the course of a calendar month (''Orders Fee''), or for submitting in excess of 3 billion messages (either orders or quotes) without executing at least one contract for every 1,500–5,000 messages (''Messages Fee'').[4] If an ATP Holder is liable for either or both fees in a given month, that firm is only charged the greater of the two fees.

The Exchange has found that firms may have assessable behavior for an anomaly that takes place over the course of a day or two, or that occurs late in the month before the anomalous behavior can be fully diagnosed and mitigated. Because the firms recognize this as affecting their own efficiency, they address such issues quickly and work with Exchange staff to improve their messaging behavior. The Exchange notes that in a recent period of high volatility, firms were quick to address potential EBUF charges. To encourage a collegial effort in resolving such anomalies, the Exchange proposes that the EBUF only be charged for the second and any subsequent instance in a rolling 12-month period. In other words, EBUF would not be assessed for the first occurrence in a rolling 12-month period.

The Exchange also proposes to modify the calculation basis for the Messages Fee. Currently, the Exchange charges an ATP Holder a fee of $0.005 per 1,000 messages (including orders or quotes) in excess of 3 billion messages in a calendar month if the ATP Holder does not execute at least one contract for every 5,000 messages entered. In order for the Exchange to have flexibility to adjust the threshold level to reflect market conditions and current business activity, the Exchange proposes to amend the current rule text in the Fee Schedule to remove reference to the current threshold level of 3 billion messages and replace it with language providing that the level ''would be no less than 2 billion messages and no more than 10 billion messages.'' The Exchange is not proposing to change the current level, which would remain at 3 billion messages. If the Exchange were to change the level, the Exchange would announce any such change by Trader Update and the revised threshold would be applicable for the next calendar month.

The Exchange also proposes to modify the manner in which the Messages Fee is calculated to encourage quote quality. Specifically, the Exchange proposes to exclude from the Messages to Contracts Traded Ratio calculation any quotes that sets or matches the National Best Bid-Offer (''NBBO'') market at the time the quotes are received. The Exchange believes that such exclusion will encourage Market Makers to submit tighter quotes without the risk that such quotes would result in increased fees. The proposed revised calculation would also keep Market Makers from submitting wide quotes to avoid excessive messaging.

Additionally, the Exchange proposes to exclude from the Messages to Contracts Traded Ratio calculation any quote in a Specialist's or e-Specialist's allocated issues. Specialists and e-Specialists have a heightened Regulatory obligation to make markets in their allocated issues.[5] Unlike other Market Makers, Specialists and e-Specialists cannot relinquish issues from their allocation without the approval of the Exchange.[6]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Currently, the Exchange has set the ratio at 1 contract for every 5,000 messages.

[5] Specialists (and e-Specialists) must provide continuous two-sided quotations throughout the trading day in its appointed issues for 90% of the time the Exchange is open for trading in each issue. *See* NYSE American Rule 925.1NY.

[6] While Directed Order Market Makers (''DMM'') also have a 90% quoting obligation in their DMM issues, DMM issues may be added or dropped at

The Exchange notes that failure to mitigate excessive message traffic by a Specialist or e-Specialist can be addressed by the Exchange by disqualification due to operational change warranting immediate action.[7]

During the period of recent volatility and activity, the Exchange noted a significantly higher number of messages generated without a proportional amount of executed volume, especially in less active-option issues. Concurrently, the Exchange saw no degradation in system performance because of prudent upgrades and expansion of the trading system in the past year. Thus, the Exchange believes that the proposed modifications would continue to encourage market participants to be rational and efficient in the use of the Exchange's system capacity. The Exchange believes that the proposed modifications should also reduce the possibility of charging ATP Holders a Messages Fee for messages designed to help maintain accurate and liquid markets with narrower spreads.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed modifications to the Fees are reasonable, equitable, and not unfairly discriminatory because the proposed changes would continue to encourage market participants to be rational and efficient in the use of the Exchange's system capacity, which would benefit all market participants. The Exchange believes that assessing the Fees only after the second instance in a rolling twelve month period is reasonable because it would encourage participants to work with the Exchange staff to mitigate the issues while not having a deleterious effect on market quality or participation.

The Exchange believes setting the threshold for the Messages Fee to be within a range is reasonable because it would provide the Exchange with flexibility to respond to changing market and business conditions in an expeditious manner which the Exchange believes would help perfect the mechanism for a free and open national market system, and generally help protect investors and the public interest.

The proposed adjustments to the manner in which the Messages Fee is calculated are reasonable because the proposed changes would encourage Market Makers to submit tighter quotes without the risk that such quotes would result in increased fees. The proposed adjustments are also not unfairly discriminatory as the proposed changes would apply to all similarly situated market participants that are subject to the Messages Fee on an equal basis while encouraging quotes that are competitive and that increase the overall quality of markets.

Finally, the Exchange believes the exclusion of Specialist and e-Specialist quotes in their appointed issues is reasonable, equitable and not unfairly discriminatory because Specialists and e-Specialists have a heightened quoting obligation than other market participants and cannot relinquish allocation of their issues as easily as Market Makers are able to increase or decrease their appointments.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed changes to the Excessive Bandwidth Utilization Fees would not place an unfair burden on competition because the proposed changes are designed to encourage efficient use of Exchange's system capacity and would apply to all market participants that are subject to the Fees.

To the extent that these purposes are achieved, the Exchange believes that the proposed changes would enhance the quality of the Exchange's markets and increase the volume of orders directed to the Exchange. In turn, all the Exchange's market participants would benefit from the improved market liquidity. If the proposed changes make the Exchange a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become ATP Holders.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2018–20 on the subject line.

any time, consistent with NYSE American Rule 923NY(c).

[7] The Exchange notes that failure to mitigate excessive message traffic by a Specialist or e-Specialist can be addressed by the Exchange by disqualification due to operational change warranting immediate action. *See* NYSE American Rule 927NY(b)(2).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2018–20. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2018–20 and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10263 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33094; File No. 812–14765]

TCW Direct Lending LLC, et al.;

May 9, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under sections 12(d)(1)(J), 57(c), 57(i) and 60 of Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 12(d)(1)(A), 12(d)(1)(C), 57(a)(1), 57(a)(2) and 57(a)(4) of the Act and rule 17d–1 under the Act.

APPLICANTS: TCW Direct Lending LLC (the ''Fund''), TCW Middle Market Lending Opportunities BDC, Inc. (the ''Extension Fund''), and TCW Asset Management Company (the ''Adviser'').

SUMMARY OF APPLICATION: Applicants seek an order to permit the Fund (i) to conduct an exchange offer pursuant to which investors in the Fund (''Unitholders''), including certain directors and officers of the Fund and employees of the Adviser (collectively, the ''TCW Directors, Officers and Employees''), may elect to exchange all or a portion of their units in the Fund (''Units'') for an equivalent number of shares (''Shares'') in the Extension Fund (each such Unitholder, an ''Electing Unitholder''), and (ii) to transfer to the Extension Fund a pro rata portion of the Fund's assets and liabilities, including a pro rata portion of each of the Fund's portfolio investments, in proportion to the percentage of Units tendered and accepted for exchange.

FILING DATES: The application was filed on April 20, 2017, and amended on October 16, 2017, May 3, 2018, and May 9, 2018.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on May 30, 2018 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to section 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. The Applicants: c/o Adrian Rae Leipsic, Esq., and Adam E. Fleisher, Esq., Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Asen Parachkevov, Senior Counsel, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund, a Delaware limited liability company, is a closed-end management investment company that has elected to be regulated as a business development company (''BDC'') under the Act. On April 18, 2014, the Fund filed a registration statement on Form 10 to register Units pursuant to section 12(g) of the Exchange Act of 1934 (the ''Exchange Act''). The Fund commenced operations on September 19, 2014. The Fund operates as a direct lending company that seeks to generate risk-adjusted returns primarily through direct investments in senior secured loans made to middle-market companies or other companies that are engaged in various businesses.

2. The Fund conducted a private offering of its Units to investors in reliance on the exemption from registration provided by section 506 of Regulation D under the Securities Act of 1933 (the ''Securities Act''). The Fund entered into subscription agreements with its Unitholders, pursuant to which the Unitholders made capital commitments to the Fund. The Units are not traded on an exchange and are not freely transferable.

3. The Extension Fund, a Delaware corporation and a wholly-owned subsidiary of the Fund, intends to elect to be regulated as a BDC. Applicants state that the Extension Fund will have investment objectives and investment policies that are substantially similar to the Fund's. Applicants state that the Extension Fund intends to conduct an initial public offering or listing of its Shares immediately following the completion of the Proposed Transactions.

4. The Adviser, a Delaware limited liability company, is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Adviser serves as investment adviser to the Fund pursuant to an investment advisory

agreement, and intends to serve as investment adviser to the Extension Fund.

5. Applicants state that the Fund's legal interest in each of its existing portfolio investments is capable of being proportionally assigned or similarly transferred on a pro rata basis. Applicants further state that each of the credit agreements and loan documents governing the terms of the Fund's assets, which primarily consist of loans and other private investments in middle market companies, permits an assignment, participation or similar transfer by the Fund without the need for the written consent of any administrative or collateral agent, borrower or other party.

6. Applicants state that the Fund's limited liability company operating agreement (the ''LLC Agreement'') provides that the Fund will be dissolved upon the expiration of its six-year term on September 19, 2020 (subject to any extensions of the term in accordance with the procedures set forth in the LLC Agreement), whereupon the Fund's assets will be liquidated in an orderly manner, capital will be returned to the Unitholders, and the Fund will wind up. Applicants state that the Fund's organizational documents do not permit the Fund to conduct an initial public offering of its Units, and the Fund has agreed that no Unitholder will be required to participate in a publicly traded vehicle without such Unitholder's consent.

7. Applicants state that the Fund's LLC Agreement provides for the ability of the Fund to engage in a ''split-off'' transaction, which, as described below and in greater detail in the application, would be implemented through the Exchange Offer, the Refinancing, the Contribution Transaction and the Share Issuance (each defined below, and, collectively, the ''Proposed Transactions''). The costs and expenses of the Proposed Transactions will be borne by the Adviser.[1]

8. If the requested order is granted, the Applicants propose to conduct an exchange offer, pursuant to which each Unitholder may elect to exchange a number of Units for an equivalent number of Shares (the ''Exchange Offer''). The Exchange Offer will be conducted as a private placement pursuant to Regulation D and made in compliance with rule 13e–4 under the Exchange Act and section 23(c)(2) of the Act.

9. Applicants state that the Exchange Offer will not commence unless and until (1) the boards of the Fund and the Extension Fund (the ''Fund Board'' and the ''Extension Fund Board'', and collectively, the ''Boards''), including a ''required majority'' (as defined in section 57(o) of the Act (''Required Majority'')) of the directors of each Board, authorize and approve the Proposed Transactions, and make all necessary determinations, including among other things, that: (i) The Proposed Transactions are in the best interests of the Fund or the Extension Fund, as applicable, (ii) the interests of Unitholders who elect to remain invested in the Fund and the interests of the Electing Unitholders will not be diluted as a result of effecting the Proposed Transactions, and (iii) following the Proposed Transactions, all Unitholders, including the Electing Unitholders, will hold the same pro rata interest in the same underlying portfolio investments as immediately prior to the Exchange; (2) the Fund Board, including a Required Majority, approves the participation in the Exchange by any ''remote'' affiliate of the Fund, as described in Section 57(d) of the Act and as required under section 57(f) of the Act; and (3) the Extension Fund Board, including a Required Majority, and the Fund, in its capacity as initial shareholder of the Extension Fund, each approve the investment advisory agreement between the Extension Fund and the Adviser.

10. Applicants state that simultaneously with the Share Issuance (as defined below), the Fund will transfer to the Extension Fund a pro rata portion of each of the Fund's assets and liabilities, including each of the Fund's portfolio investments, in proportion to the percentage of Units tendered by Electing Unitholders and accepted for exchange (the ''Contribution Transaction''). Applicants state that such computation will be objective and formulaic and determined solely on the basis of the percentage of Electing Unitholders, and will not be impacted by the valuation of the Fund's assets or any other factor that would impart an element of discretion. Applicants further state that material liabilities (other than those arising under the Fund's credit facility) will also be proportionally transferred or transferred on a pro rata basis by the Fund to the Extension Fund.

11. Applicants state that simultaneously with the Contribution Transaction, the Extension Fund will issue the applicable number of Shares to each Electing Unitholder in exchange for the corresponding number of Units accepted by the Fund from such Electing Unitholder in the Exchange Offer (the ''Share Issuance'').

12. Immediately prior to (and effectively contemporaneously with) the closing of the Exchange, the Contribution Transaction and the Share Issuance, (a) the Extension Fund will enter into a new credit facility and draw down an amount equal to the pro rata portion of the Fund's existing indebtedness immediately prior to the closing of the Exchange Offer attributable to the Units that have been validly tendered by Electing Unitholders and accepted for exchange, which amount will be distributed to the Fund and will be used to pay down the Fund's current outstanding senior secured revolving credit facility, and (b) the Fund will enter into a new credit facility to drawn down an amount to pay down the remainder of its existing credit facility (together, the ''Refinancing'').

13. Applicants believe that the Proposed Transactions will result in a number of benefits to Unitholders. Applicants state that the Proposed Transactions will provide Unitholders with the optionality that was negotiated for and was disclosed at the time of their investment in the Fund and will enable Unitholders to participate in the Extension Fund in a manner that promotes capital formation. Applicants state that the Proposed Transactions will position the Extension Fund to continue operations as a BDC with the goals of achieving greater economies of scale and completing an initial public offering or listing of its Shares. Applicants further state that by allowing the Unitholders to elect to participate in the Extension Fund, the Proposed Transactions will enable potential future retail investors to benefit from alignment with sophisticated institutional investors who elect to participate in the Extension Fund.

Legal Analysis

Section 57(a)(1) and 57(a)(2) of the Act

1. The Applicants are requesting an exemption pursuant to section 57(c) from the provisions of sections 57(a)(1) and 57(a)(2), in order to permit the Applicants to effect the Contribution Transaction and the Share Issuance.

2. Sections 57(a)(1) provides that it shall be unlawful for any person who is related to a BDC in a manner described in section 57(b)[2], acting as principal, to sell to such BDC, or to a company controlled by such BDC, any securities

[1] All costs and expenses relating to the organization and operation of the Extension Fund will be borne by the Extension Fund as fully disclosed to investors prior to their decision to participate in the Exchange Offer.

[2] Section 57(b) specifies the persons to whom the prohibitions of sections 57(a)(1), (a)(2) and (a)(4) apply.

or other property unless such sale involves *solely* (emphasis added) (i) securities of which the buyer is the issuer or (ii) securities of which the seller is the issuer and which are part of a general offering to the holders of a class of its securities.

3. Section 57(a)(2) provides that it shall be unlawful for any person who is related to a BDC in a manner described in section 57(b), acting as principal, to purchase from such BDC, or from a company controlled by such BDC, any securities or other property except for securities of which the seller is the issuer.

4. Rule 57b–1 does not exempt the Fund and the Extension Fund from being subject to the prohibitions of section 57(a).[3] In addition, the TCW Directors, Officers and Employees may be prohibited by section 57(a)(1) and (2) from participating in the Share Issuance as a result of tendering their Units in the Exchange.

5. Section 57(c) authorizes the Commission to issue an exemptive order if (i) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching of the BDC or its shareholders or partners on the part of any person concerned, (ii) the proposed transaction is consistent with the policy of the BDC, as recited in the filings made by such company with the Commission under the Securities Act, its registration statement and reports filed under the Exchange Act, and its reports to shareholders or partners; and, and (iii) the proposed transaction is consistent with the general purposes of the Act.

6. The Applicants submit that the request for an exemption from the provisions of section 57(a)(1) and (a)(2) meets the standards for an order set forth in section 57(c). First, Applicants state that the terms of the Contribution Transaction, including the consideration to be paid or received, are fair and reasonable and involve no element of overreaching, since the transfer by the Fund of a pro rata portion of each of its assets and liabilities to the Extension Fund will be determined solely on the basis of the percentage of Electing Unitholders, which is purely an objective and formulaic exercise. Second, the Applicants state that the Contribution Transaction and the Share Issuance are consistent with the stated investment policies of the Fund as fully disclosed to Unitholders. Finally, the Applicants submit that the Boards, including a Required Majority of each, will have approved and authorized, as well as made all required determinations with respect to, the Proposed Transactions.

Section 57(a)(4) and Rule 17d–1, as Made Applicable to BDCs by Section 57(i) of the Act

7. The Applicants are also requesting an Order pursuant to section 57(i) and rule 17d–1, to permit certain joint transactions that may be otherwise prohibited by Section 57(a)(4) and rule 17d–1.

8. Section 57(a)(4) makes it unlawful for any person who is related to a BDC in a manner described in section 57(b), acting as principal, knowingly to effect any transaction in which the BDC or a company controlled by such BDC is a joint or a joint and several participant. Section 57(i) provides that the rules under section 17(d) applicable to registered closed-end investment companies are deemed to apply to transactions subject to section 57(a). In relevant part, rule 17d–1 prohibits any person who is related to a BDC in a manner described in section 57(b), acting as principal, from participating in, or effecting any transaction in connection with, any joint enterprise or other joint arrangement in which the BDC or a company controlled by such BDC is a participant, unless an application has been filed with the Commission and an order has been granted.

9. The Fund and the Extension Fund may be viewed as affiliated persons of each other in a manner described in section 57(b). Considered together, the Proposed Transactions will require a considerable degree of coordination among the Fund, the Extension Fund and the Adviser that may indicate the existence of a ''joint arrangement'' as described in rule 17d–1. Further, certain TCW Directors, Officers and Employees who have invested in the Fund are affiliated persons of the Fund pursuant to section 57(b).

10. Rule 17d–1(b) provides that in determining whether to grant such an order, the Commission will consider whether the participation of the investment company in the joint transaction ''is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.''

11. The Applicants submit that the request for an order under section 57(a)(4) and rule 17d–1 meets the standards set forth to rule 17d–1 for the same reasons as discussed above with respect to the request for exemption from sections 57(a)(1) and (a)(2). The Applicants state that TCW Directors, Officers and Employees will participate in the Exchange pursuant to the same terms and documentation as all other Unitholders, and the Proposed Transactions will not place any of the Fund, the Extension Fund or existing Unitholders of the Fund in a position less advantageous than that of any other of such persons. The Applicants further submit that the terms of the investment advisory agreement between the Extension Fund and the Adviser will be comprehensively disclosed to all Unitholders in the Offer to Exchange, the Fund and the Extension Fund will pay comparable management fees in respect of overlapping investments transferred by the Fund to the Extension Fund, and each Unitholder who wishes to remain invested in the Fund will be subject to the Fund's existing fee structure without any modification.

Sections 12(d)(1)(A) and 12(d)(1)(C), as Made Applicable to BDCs by Section 60 of the Act

12. The Applicants are requesting an exemption pursuant to section 12(d)(1)(J) from the provisions of section 12(d)(1)(A) and section 12(d)(1)(C), to permit the Applicants to effect the Proposed Transactions.

13. Sections 12(d)(1)(A) and 12(d)(1)(C) are made applicable to BDCs by section 60 to the same extent as if they were registered closed-end investment companies. The Proposed Transactions may be viewed as violating sections 12(d)(1)(A)[4] and 12(d)(1)(C)[5] because prior to the Exchange, the Fund will own 100% of the newly issued Shares of the Extension Fund, even

[3] Rule 57b–1 exempts certain persons otherwise related to a BDC in a manner described in section 57(b)(2) from being subject to the prohibitions of section 57(a). Specifically, this rule states that the provisions of section 57(a) shall not apply to any person: (a) *Solely because* that person is directly or indirectly controlled by a BDC; or (b) *solely because* that person is directly or indirectly controlling, controlled by, or under common control with, a person described in (a) of the rule or is an officer, director, partner, copartner, or employee of a person described in (a) of the rule (emphasis added).

[4] Section 12(d)(1)(A) provides that no registered investment company (''acquiring company'') may acquire securities of any other investment company (''acquired company'') if such securities represent more than 3% of the acquired company's outstanding voting stock or more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets.

[5] Section 12(d)(1)(C) provides that no investment company (''acquiring company'') may acquire any securities issued by a registered closed-end investment company, if the acquiring company owns more than 10% of the total outstanding voting stock of such closed-end company.

though such ownership will exist for only a momentary period of time.

14. The Applicants submit that the requested exemption from sections 12(d)(1)(A) and 12(d)(1)(C) meets the standards set forth in section 12(d)(1)(J). Section 12(d)(1)(J) provides that ''the Commission, by rule or regulation, upon its own motion or by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of this subsection, if and to the extent that such exemption is consistent with the public interest and the protection of investors.''

15. The Applicants state that the Proposed Transactions are consistent with the public interest in that they are intended to result in a benefit to non-electing Unitholders, Electing Unitholders and potential future investors in the Extension Fund. The Applicants also state that the Proposed Transactions are consistent with investor protection because the momentary holding by the Fund of Shares of the Existing Fund does not raise any of the concerns that Sections 12(d)(1)(A) and (C) were intended to address.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10246 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83192; File No. SR–BX–2018–017]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Reorganize and Amend Chapter XV, Section 3, entitled BX Options Market—Ports and Other Services

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, Nasdaq BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reorganize and amend Chapter XV, Section 3, entitled ''BX Options Market—Ports and Other Services.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to reorganize and amend Chapter XV, Section 3, entitled ''BX Options Market—Ports and Other Services.'' The Exchange offers various services across its 6 affiliated options markets, BX, The Nasdaq Options Market LLC, Nasdaq Phlx LLC, Nasdaq ISE, LLC, Nasdaq GEMX, LLC and Nasdaq MRX, LLC (''Nasdaq Affiliated Markets'').[3] The Exchange desires to rename services to conform the naming of the offerings across all Nasdaq Affiliated Markets. The Exchange proposes to reorganize Section 3 to list order and quote protocols first, order and execution offerings next, followed by data ports and other ports as the last section. The Exchange proposes to list data offerings which are offered at no cost. The Exchange believes that aligning its offerings, where relevant, across the Nasdaq Affiliated Markets will provide more transparency as to the offerings for market participants.

Ports

The Exchange proposes to define a port within Section 3 to provide additional clarity to the fee schedule as ''a logical connection or session that enables a market participant to send inbound messages and/or receive outbound messages from the Exchange using various communication protocols.'' The Exchange believes this definition will assist Participants in distinguishing ports from other offerings.

Order and Quote Protocols

The Exchange proposes to add a new section (i) and include the following introductory sentence, ''The following order and quote protocols are available on BX.'' Today, BX offers market participants an Order Entry order protocol and an SQF quote protocol. These fees currently exist on the fee schedule. The Exchange is not amending any pricing related to these protocols. The Exchange proposes to rename ''Order Entry Port Fee'' as ''FIX Port Fee.'' This description is more accurate as ''FIX'' is the name of the order entry protocol. A Participant may request an SQF Port or an SQF Purge Port, the price is $500 for either port. SQF is an interface that allows market makers to connect and send quotes, sweeps and auction responses into the Exchange. The SQF Purge port only receives and notifies of purge requests from the market maker. The proposal is to include a line item for each offering because a market participant may either select an SQF port or an SQF Purge Port and both are assessed the same $500 fee. The price does not vary. The Exchange separately lists these offerings on Nasdaq ISE, LLC. A separate line item will make clear that there are two options for this offering. The price of the SQF Purge Port is not being amended.

The Exchange believes that grouping the available order and quote protocols together into their own subsection will provide greater transparency within its fee schedule as to the available protocols.

Order and Execution Information

The Exchange proposes to add a new section (ii) and add the following introductory sentence, ''The following order and execution information is available to Participants.'' The Exchange proposes to group the available order and execution information that is particular to a Participant's executions on BX into its own subsection. Today, BX offers CTI, Order Entry DROP and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange will file a similar rule change on each Nasdaq Affiliated Market to conform the offerings by amending naming to make them similar and delineating each offering on the fee schedule where no fee is assessed.

TradeInfo. The Exchange proposes to rename ''Order Entry DROP'' as ''FIX DROP'' for the reasons described above. Nasdaq ISE, LLC uses the term FIX DROP. The Exchange proposes to add the word ''Interface'' after ''TradeInfo'' to make clear that this particular offering is an interface. The Exchange proposes to relocate these current fees into section (ii). No changes are being made to pricing and these fees exist today within Section 3.

Data Ports

The Exchange proposes to add a new section (iii) and include the following information, ''The following data ports fees apply in connection with data subscriptions pursuant to BX Rules at Chapter XV, Section 4. The below port fees do not apply if the subscription is delivered via multicast.'' The following sentence is simply being relocated, ''These ports are available to non-BX Participants and BX Participants.'' The Exchange believes the addition of this sentence makes clear where the related applicable data fees can be located and when the fees for ports are charged. The Exchange notes that if the subscription is delivered via multicast, the port fee is not charged. There are multiple ways in which data can be communicated. Multicast refers to sending data across a network to several users as [sic] a time. Unicast on the other hand sends data across a network to a single recipient. Finally, TCP, which stands for Transmission Control Protocol and is also known as ''TCP/IP'' refers to the suite which includes the internet Protocol, provides host-to-host connectivity. Today, the Exchange requires a port when a Participant utilized Unicast and TCP/IP delivery, but does not required [sic] a port when a Participant selects multicast delivery. The Exchange believes this additional information will add more transparency to the fee schedule for Participants selecting data transmission options. The Exchange notes the current offerings for BX Depth and BX Top are being relocated within this section. No changes are being made to the fees.

Other Ports

The Exchange proposes to adopt a new section (iv) entitled ''Other Ports'' to include Disaster Recovery Ports. Today, the Exchange offers Disaster Recovery Ports for all the ports reorganized into proposed subsections (i), (ii) and (iii). The Exchange is noting that these ports are available at no cost to make clear their availability.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934,[4] in general, and furthers the objectives of Section 6(b)(5) of the Act,[5] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on BX. The Exchange's proposal to reorganize Section 3 and rename certain offerings to conform to other Nasdaq Affiliated Markets will provide clarity as to the offerings and uniformity in naming similar offerings. The Exchange believes that its new structure makes clear the differences in its offerings and the availability of various options within each type of offering. The Exchange's proposal is consistent with the protection of investors and the public interest in that the proposal provides greater transparency as to the offerings, the application of fees and the availability of offerings which are offered at no cost. The Exchange's proposal to define a port should also provide market participants with greater insight into the terminology utilized within Section 3.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[6] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on BX. The offerings are available to all Participants. The Exchange does not intend to amend pricing, rather it proposes to make clear the application of the current pricing.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(8).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more detailed and reorganized information regarding its offerings and further the protection of investors and the public interest because it will provide greater transparency as to the offerings available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

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

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–BX–2018–017 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–BX–2018–017. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2018–017, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10252 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83200; File No. SR–CboeBZX–2018–031]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify Certain Routing Fees Related to its Equity Options Platform

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2018, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with 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

The Exchange filed a proposal to modify certain Routing Fees related to its equity options platform.

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'') to make certain changes to the following tiers: (i) Quoting Incentive Program (''QIP'') Tier 2 under footnote 5; (ii) Non-Customer Non-Penny Pilot Take Volume Tiers 1 and 2 under footnote 13; and (iii) Non-Customer Penny Pilot Take Volume Tiers 1 and 3 under footnote 3, effective May 1, 2018.

QIP Volume Tier 2

The Exchange currently offers two QIP Tiers under footnote 5, which provide an additional rebate ranging from $0.02 to $0.04 per contract for qualifying Market Maker[5] orders that add liquidity in: (i) Penny Pilot Securities that yield fee code PM and; (ii) Non-Penny Pilot Securities that yield fee code NM. The additional rebate per contract is for an order that adds liquidity to BZX Options in options classes in which a Member is a Market Maker registered pursuant to Exchange Rule 22.2. The Exchange now proposes to amend the required criteria for QIP Tier 2. Particularly, under current Tier 2, a Member may receive an additional rebate of $0.04 per contract where they have an ADAV[6] in Market Maker orders greater than or equal to 0.35% of average OCV.[7] The Exchange proposes to amend the required criteria for Tier 2 to now require that the Member have an ADAV in Market Maker orders greater than or equal to 1.40% of average OCV.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Market Maker must be registered with BZX Options in an average of 20% or more of the associated options series in a class in order to qualify for QIP rebates for that class.

[6] ''ADAV'' means average daily added volume calculated as the number of contracts added per day. *See* Exchange Fee Schedule.

[7] ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *See* Exchange Fee Schedule.

Non-Customer Non-Penny Pilot Take Volume Tiers 1 and 2

Fee code NP is currently appended to all Non-Customer orders in Non-Penny Pilot Securities that remove liquidity, and result in a standard fee of $1.10 per contract. The Exchange currently offers two Non-Customer Non-Penny Pilot Take Volume Tiers (''NP Volume Tiers'') under footnote 13, which provide a reduced fee of $1.04 per contract for orders that that yield fee code NP. The Exchange proposes to increase the rates set forth in NP Volume Tiers 1 and 2. Specifically, NP Volume Tiers 1 and 2 will increase from $1.04 per contract to $1.07 per contract. The Exchange notes that the proposed rates still provide a discount from the standard Non-Customer NP rate and will continue to provide an incentive for Members to strive for the tier levels, which provide a discount off the standard rate.

Non-Customer Penny Pilot Take Volume Tiers 1 and 3

Fee code PP is currently appended to all Non-Customer orders in Penny Pilot Securities that remove liquidity, and result in a standard fee of $0.50 per contract. The Exchange currently offers three Non-Customer Penny Pilot Take Volume Tiers under footnote 3, which provide reduced fees ranging from $0.44 to $0.47 per contract for orders that that yield fee code PP.

Pursuant to Volume Tier 1, a Member will pay a reduced fee (currently $0.44 per contract) if the Member (i) has an ADAV in Customer orders greater than or equal to 0.80% of average OCV; (ii) has an ADAV in Market Maker orders greater than or equal to 0.35% of average OCV; and (iii) has on BZX Equities an ADAV greater than or equal to 0.30% of average TCV.[8] The Exchange proposes to add a fourth prong that requires the member to have an ADAV in Customer Non-Penny orders greater than or equal to 0.05% of average OCV.

Pursuant to Volume Tier 3, a Member will pay a reduced fee (currently $0.44 per contract) if the Member has an ADAV in Customer orders greater than or equal to 1.70% of average OCV. The Exchange proposes to add a second prong that requires the member to have an ADAV in Customer Non-Penny orders greater than or equal to 0.30% of average OCV. The Exchange believes the proposed changes will encourage the entry of additional orders to the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[9] in general, and furthers the objectives of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities.

The Exchange believes the increase to the rates in NP Volume Tiers 1 and 2 is reasonable because Members submitting Non-Customer orders still have the opportunity to receive a lower fee in Non-Penny Pilot classes than the standard rate (albeit less of a discount than before). The Exchange also believes the rates will continue to provide an incentive for Members to strive for the tier levels, which provide discounts off the standard rate. The Exchange believes the proposed changes are equitable and nondiscriminatory because the proposed changes apply uniformly to all Members.

The Exchange next notes that volume-based discounts such as those currently maintained on the Exchange have been widely adopted by options exchanges and are equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value of an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. While the proposed modifications to the existing QIP Tier 2 and NP Volume Tiers [sic] make such tiers more difficult to attain, each is intended to incentivize Members to send additional Market Maker and/or Customer orders, respectively, to the Exchange in an effort to qualify or continue to qualify for the lower fees made available by the tiers. As such, the Exchange also believes that the proposed changes are reasonable. The Exchange notes that increased volume on the Exchange provides greater trading opportunities for all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [11] and paragraph (f) of Rule 19b–4 thereunder.[12] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–CboeBZX–2018–031 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.

[8] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

All submissions should refer to File Number SR–CboeBZX–2018–031. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2018–031, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10260 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83197; File No. SR–BOX–2018–15]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule on the BOX Market LLC ("BOX") Options Facility To Amend Connectivity Fees and Establish Port Fees

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with 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 the Substance of the Proposed Rule Change*

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Market LLC (''BOX'') options facility. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on May 1, 2018. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section VI. (Technology Fees) of the Fee Schedule to establish Port Fees assessed to BOX Participants connecting to BOX systems. The Exchange does not currently charge Participants to access the BOX System through ports. The Exchange is now proposing to assess fees for these connections.[5] The Exchange notes that these types of fees are commonly assessed within the industry. Additionally, the Exchange proposes to amend Section VI.A. (Connectivity Fees) to delete the table and applicable language and add language that BOX will pass-through any connectivity fees to Participants and non-Participants that are assessed to BOX by third-party external vendors on behalf of a Participant or non-Participant.

Connectivity Fees

The Exchange proposes to delete the table and applicable language in Section VI.A (Connectivity Fees). Currently, Section VI.A (Connectivity Fees) of the Fee Schedule states that market participants are required to connect to the BOX network through datacenters owned and operated by third-party vendors. The Fee Schedule includes a table of connectivity fees associated with two datacenters, NY4 and 65 Broadway, where market participants can connect to BOX. The Exchange is proposing to delete the table and data center specific language from the Fee Schedule. The Exchange notes that no other exchanges include this detail within their fee schedules and it has received Participant feedback that the inclusion of this information is causing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[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. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange). When BOX applied for registration as a national securities exchange in 2012, it filed exhibits which detailed the operations of the Exchange. Specifically, Exhibit E of BOX's application provided an in-depth description of the means in which Participants would gain access to the BOX systems through certain connections and ports. These connections have been in place since BOX's application approval in 2012. The Exhibit E is available at *https://www.sec.gov/rules/other/2012/boxapplication.htm.*

confusion about the technology fees assessed by BOX.

Next, the Exchange proposes to add language to Section VI.A. to state that BOX will pass-through any connectivity fees to Participants and non-Participants that are assessed to BOX by third-party external vendors on behalf of a Participant or non-Participant connecting to BOX (including cross-connects).[6] The Exchange notes that the proposed change is similar to fees at another options exchange.[7]

Port Fees

The Exchange then proposes to establish fees for access and services used by Participants via existing connections known as ''Ports.'' [8] BOX currently provides three (3) types of ports, including: (i) The Financial Information Exchange (''FIX'') Port, which allows Participants to electronically send orders in all products traded on the Exchange; (ii) the SOLA® Access Information Language (''SAIL'') Port, which allows Market Makers and other Participants to submit electronic quotes and orders to the Exchange; and (iii) the Drop Copy Port, which provides a real-time feed containing trade execution, trade correction, trade cancellation and trade allocation for regular and complex orders on the Exchange. The Exchange notes that Participants must connect to a minimum of one port via FIX or SAIL and that there is no minimum or maximum number of ports required for the Drop Copy Port.

BOX will assess monthly Port Fees on Participants in each month the market participant is credentialed to use a Port in the production environment and based upon the number of credentialed Ports that user is entitled to use.

The FIX Port Fees will be the following:

FIX ports	BOX monthly (per port per month) port fees
1st FIX Port	$500
FIX Ports 2 through 5	250
Additional FIX Ports over 5	150

The Exchange notes that the proposed FIX Port fees are similar to fees assessed at options exchanges within the industry.[9]

The SAIL Port Fees will be the following:

SAIL ports	BOX monthly port fees
Market Makers	$1000 per month for all Ports.
Other Participants.	500 per port per month (1–5 Ports).
	$150 per month for each additional Port.

The Exchange also notes that the proposed SAIL Port fees are similar to fees assessed at options exchanges in the industry.[10]

Further, BOX will assess Drop Copy Port Fees of $500 per port per month for each month a Participant is credentialed to use a Drop Copy Port. The Exchange notes that the proposed Drop Copy Port Fee is similar to fees at another options exchange in the industry; [11] and that Participants are not required to connect to a minimum or maximum amount of Drop Copy Ports.

Other

Lastly, the Exchange proposes to make non-substantive changes to the Fee Schedule. Specifically, the Exchange proposes to renumber the footnotes to reflect the proposed changes discussed above.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[12] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Connectivity Fees

The Exchange believes that removing the datacenter specific text and table from Section VI.A of the Fee Schedule is reasonable, equitable and not unfairly discriminatory. As discussed above, market participants will continue to be assessed the applicable fees by and billed directly by the datacenter pursuant to their agreement with the datacenter. The Exchange believes that removing the table of associated fees is reasonable, equitable and not unfairly discriminatory as it has caused investor confusion with regard to connectivity fees assessed at BOX.

BOX believes it is reasonable, equitable and not unfairly discriminatory to pass-through any connectivity fees that are charged to BOX by third-party vendors on behalf of the Participant or non-Participant. BOX believes it is reasonable and equitable to recover these costs that were incurred on BOX for the benefit of the Participant or non-Participant. The Exchange believes the proposed change is reasonable as another exchange in the industry has a similar provision in its fee schedule.[13] Lastly, the Exchange believes that the proposed change is equitable and not unfairly discriminatory because it applies to all market participants, regardless of account type.

Port Fees

FIX and SAIL Port Fees

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to assess FIX and SAIL Port Fees on Participants who use such services. The FIX Port enables Participants to submit orders electronically to the Exchange for processing, while the SAIL Port enables Market Makers to submit quotes to the Exchange for processing. The SAIL Port also allows other Participants to submit orders electronically to the Exchange for

[6] The Exchange notes that market participants will continue to be assessed fees by and billed directly by the datacenter pursuant to their agreement with the datacenter. The Exchange is proposing that any other fees assessed to BOX on behalf of a Participant or non-Participant will be passed through to the market participants.

[7] *See* Miami International Securities Exchange LLC (''MIAX'') Fee Schedule Section 5(c).

[8] Within the industry, market participant access to an Exchange is referred to as ''Ports,'' ''Sessions,'' and ''Gateways.'' *See* Securities Exchange Act Release No. 81903 (October 19, 2017), 82 FR 49450 (October 25, 2017)(SR–ISE–2017–91). In their filing, ISE refers to these connections as ''sessions.'' *See also* NYSE American LLC (''American'') Fee Schedule, General Note 4. NYSE refers to these connections as customer ''gateways'' that provide for order entry.

[9] *See* MIAX Fee Schedule. MIAX assesses the 1st FIX Port a fee of $550 per month, FIX Ports 2 through 5 $350 per month per port and additional FIX Ports over 5 $150 per month per port. *See also* NYSE Arca, Inc. (''Arca'') Fee Schedule. For the Order Entry Port (similar to the proposed FIX Port), Arca charges $450 per port per month for ports 1 through 40 and assesses $150 per port per month for 41 ports and above.

[10] *See* Nasdaq ISE, LLC (''ISE'') Fee Schedule. ISE assesses a Specialized Quote Interface (''SQF'') Port Fee of $1,100 per port per month for ISE Market Makers. The Exchange believes that the proposed SAIL Port is similar to ISE's SQF Port because both Ports allow Market Makers to directly connect to the respective Exchanges' systems in order to provide quotes to the market. The Exchange notes that BOX's SAIL Port differs from ISE's in that other Participants, like Order Flow Providers (''OFP''), have the ability to connect to the SAIL Port to enter orders to the BOX system. *See also* MIAX Fee Schedule. MIAX assesses MIAX Express Interface (''MEI'') Port Fees on Market Makers. Like ISE, MIAX's MEI Port is designated for Market Maker quotes only. As mentioned above, BOX's proposed SAIL Port is available to Market Makers and other Participants who wish to enter orders through the SAIL Port.

[11] *See* MIAX Fee Schedule. MIAX assesses a FIX Drop Copy Port Fee of $500 per month.

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] *See supra* note 7.

processing. The Exchange believes that the proposed fees for the FIX Port are reasonable as they are within the range of comparable fees at other competing options exchanges.[14] Further, the Exchange believes that the FIX Port Fees are equitable and not unfairly discriminatory because the fees are assessed to all Participants who wish to enter orders to the BOX system via the FIX Port, regardless of account type. Further, the Exchange believes that the proposed tiered pricing model for these fees is reasonable, equitable and not unfairly discriminatory as this model is commonly used within the industry for port fees or the equivalent.

The Exchange believes that the SAIL Port Fees are reasonable because they are within the range of comparable fees at other competing options exchanges.[15] Further, the Exchange believes that charging different fees for Market Makers and other market participants who wish to use the SAIL Port is reasonable, equitable and not unfairly discriminatory. BOX believes that charging a flat fee of $1,000 per month for all SAIL Ports for Market Makers is reasonable as Market Makers are required by the Exchange to connect to sixteen (16) SAIL Ports while other Participants have the ability to choose whether to connect through the FIX Port, the SAIL Port, or both.[16] As such, the Exchange believes that the proposed SAIL Port Fees are reasonable, equitable and not unfairly discriminatory.

Drop Copy Port Fee

The Exchange believes that the Drop Copy Port Fee is equitable and not unfairly discriminatory because the Exchange is uniformly assessing the Drop Copy Port Fees on all users that wish to subscribe to it, regardless of account type. Further, the Exchange believes that the proposed Drop Copy Port Fee is reasonable because it is identical to fees charged by another exchange.[17] Further, the Drop Copy Port Fee is reasonable because it is offered as an optional service for those users who wish to subscribe to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Unilateral action by BOX in establishing fees for services provided to its Participants and others using its facilities will not have an impact on competition. As a small Exchange in the already highly competitive environment for options trading, BOX does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Exchange Act. BOX's proposed fees, as described herein, are comparable to and generally lower than fees charged by other options exchanges for the same or similar services. Lastly, the Exchange believes the proposed change will not impose a burden on intramarket competition as the proposed fees are applicable to all Participants who connect to BOX.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act[18] and Rule 19b–4(f)(2) thereunder,[19] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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–BOX–2018–15 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–BOX–2018–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2018–15, and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10257 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[14] *See supra* note 9.

[15] *See supra* note 10.

[16] The Exchange requires Market Makers to connect to 16 Ports in order to satisfy their membership requirements on BOX.

[17] *See supra* note 11.

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b–4(f)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: U.S. Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Extension:

Rule 24b–1; SEC File No. 270–205; OMB Control No. 3235–0194

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval, Rule 24b–1 (17 CFR 240.24b–1)—Documents to be Kept Public by Exchanges.

Rule 24b–1 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) requires a national securities exchange to keep and make available for public inspection a copy of its registration statement and exhibits filed with the Commission, along with any amendments thereto.

There are 21 national securities exchanges that spend approximately one half hour each complying with this rule, for an aggregate total compliance burden of 10.5 hours per year. The staff estimates that the average cost per respondent is $65.18 per year, calculated as the costs of copying ($13.97) plus storage ($51.21), resulting in a total cost of compliance for the respondents of $1,368.78.

Written 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 Commission's estimate of the burden 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

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

Please direct your written comments to: Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 8, 2018.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10232 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83198; File No. SR–NASDAQ–2018–035]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Memorialize Order and Execution Available to Participants Into Chapter VI, Section 19, Entitled Data Feeds

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Nasdaq Options Market LLC (''NOM'') Rules to memorialize its order and execution information into Chapter VI, Section 19, entitled ''Data Feeds.''

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to memorialize its order and execution information into Chapter VI, Section 19, entitled ''Data Feeds.'' The Exchange proposes to rename this rule ''Data Feeds and Trade Information.'' The Exchange proposes other grammatical corrections in Section 19(a) as well.

Section 19(b)

First, the Exchange proposes to adopt a new Section 19(b) and memorialize the following order and execution information which was previously filed by the Exchange: (1) CTI; (2) TradeInfo; (3) FIX DROP; and (4) OTTO DROP.[3]

The Exchange originally noted in the Information Filing that CTI offers real-time clearing trade updates. The message containing the trade details is also simultaneously sent to the The Options Clearing Corporation. The trade messages are routed to a member's connection containing certain information. The administrative and market event messages include, but are not limited to: System event messages to communicate operational-related events; options directory messages to relay basic option symbol and contract information for options traded on the Exchange; complex strategy messages to relay information for those strategies traded on the Exchange; trading action messages to inform market participants when a specific option or strategy is halted or released for trading on the Exchange; and an indicator which distinguishes electronic and non-electronically delivered orders.

The Exchange is proposing to more specifically describe the CTI offering and memorialize it within Section 19(b)(1). The description provides more detail as to the current functionality of CTI, which is not changing. The description would continue to state that CTI is a real-time clearing trade update message that is sent to a Participant after an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (i) The Clearing Member Trade Agreement or ''CMTA'' or The Options Clearing Corporation or ''OCC'' number; (ii) Exchange badge or house number; (iii) the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 65180 (August 22, 2011), 76 FR 53521 (August 26, 2011) (SR–NASDAQ–2011–111) (''Information Filing'').

internal firm identifier; (iv) an indicator which will distinguish electronic and non-electronically delivered orders; (v) liquidity indicators and transaction type for billing purposes; and (vi) capacity. The Exchange proposes to not add the sentence which states, ''The message containing the trade details is also simultaneously sent to The Options Clearing Corporation.'' The Exchange's System sends clearing information to OCC for each transaction. This sentence does not add information that is useful or relevant and therefore the Exchange proposes to remove it. The Exchange notes that while the description is being amended, it retains more broadly the former descriptions. The information provided is specific to a market participant. The Exchange is expressing more specifically the type of data contained in CTI. The CTI offering is not changing. The Exchange is providing more details regarding the CTI offering than was originally filed in the Information Filing.

The Exchange originally noted in the Information Filing that TradeInfo allows users to scan for their NASDAQ-listed orders submitted in NASDAQ. Users can then perform actions on their orders. Users can scan for all orders in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.). For example, after scanning for open orders the user is then able to select an open order and is allowed to make corrections to the order or cancel the order. TradeInfo also allows the users to scan other orders, such as executed, cancelled, broken, rejected and suspended orders.

The Exchange proposes to amend and memorialize TradeInfo within Section 19(b)(2). The Exchange proposes to note that TradeInfo is a user interface, as compared to a data stream, to add more detail to the description. While some descriptive language is being removed from the rules, such as permitting a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders, the Exchange believes that this language is covered in the current description in that the text indicates that all orders may be searched regardless of their status. The Exchange is also adding more information to the TradeInfo description to provide Participants greater transparency.

The Exchange originally noted in the Information Filing that the Order Entry DROP provides real time information regarding orders sent to NOM and executions that occurred on NOM. The DROP interface is not a trading interface and does not accept order messages. The ''Order Entry DROP'' interface is being renamed ''FIX DROP'' for clarity as it relates to FIX ports.

The Exchange proposes to amend and memorialize FIX DROP within Section 19(b)(3). The Exchange is expanding on the original description by providing more detail by stating that it is a real-time order and execution update message that is sent to a Participant after an order has been received/modified or an execution has occurred and contains trade details specific to that Participant. The information includes, among other things, the following: (1) Executions; (2) cancellations; (3) modifications to an existing order; and (4) busts or post-trade corrections.

The Exchange originally noted in the Information Filing that OTTO DROP provides real-time information regarding orders entered through OTTO and the execution of those orders. The OTTO DROP data feed is not a trading interface and does not accept order messages. The Exchange is not amending this description rather the Exchange is memorializing the description within Section 19(b)(4).

The Exchange considers it appropriate to memorialize the order and execution information available on NOM within a rule so that Participants may understand the trade information which is available on the Exchange as it pertains to a firm's trading information. This data is available to all Participants regarding that Participant's transactions. Pricing for these products is included in the Exchange's fee schedule at Chapter XV, Section 3.[4]

Section 19(a)

The Exchange proposes minor changes to Section 19(a)(1) and (2) to change the language to indicate the Nasdaq ITCH to Trade Options and Best of Nasdaq Options each separately are data feeds and removing the ''A'' before the description.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on Nasdaq. The Exchange notes that it described this information in prior rule changes.[7] The Exchange believes that memorializing this information within a rule and updating the information will provide market participants with a list of information available specific to their trading on NOM. The Exchange believes that this proposal is consistent with the Act because it provides information on the content available to market participants regarding the trades they execute on NOM.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on NOM.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

[4] *See also* SR–NASDAQ–2018–036 (not yet published) which proposes conforming changes to the fee schedule.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* note 3 above.

[8] 15 U.S.C. 78f(b)(8).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more information regarding the order and execution information it offers and further the protection of investors and the public interest because it will provide greater transparency as to the trade detail available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

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–NASDAQ–2018–035 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2018–035. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2018–035 and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10258 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83196; File No. SR–Phlx–2018–33]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Memorialize Its Order and Execution Information Into Phlx Rule 1070

May 9, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 27, 2018, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to memorialize its order and execution information into Phlx Rule 1070.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to memorialize its order and execution information into Rule 1070, entitled

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Data Feeds.'' The Exchange proposes to rename this rule ''Data Feeds and Trade Information.'' The Exchange proposes other grammatical corrections in Rule 1070(a) as well.

Section 1070(b)

First, the Exchange proposes to adopt a new Rule 1070(b) and relocate the CTI description into 1070(b)(1) as this information concerns a member's specific trade information as compared to information available concerning the Phlx Order Book, which data is described in 1070(b). The current description includes examples in the first sentence which are not being replicated within the new description, *e.g.* trade corrections, trade cancels, options directory messages, Complex Order Strategy messages, trading action messages, and halt and system event messages. The Exchange is renumbering to be more consistent throughout Rule 1070 to conform the rule. A similar change to the numbering is being made with this proposal with the PHLX Depth of Market description in Rule 1070(a)(3). The Exchange is also noting within the CTI description that it ''contains trade details specific to that member'' to bring more clarity to the information being provided.

The Exchange proposes to memorialize TradeInfo in new Rule 1070(b)(2). The Exchange originally noted in the TradeInfo Filing [3] that TradeInfo permits a member to: Scan for all orders in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.). A subscribing member is able to cancel open orders at the order, port or firm mnemonic level. TradeInfo allows a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders. A subscribing member may generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review. TradeInfo permits a subscribing member to manage their order flow and mitigate risk by giving them the ability to view their orders and executions, as well as the ability to perform cancels at the port level. Last, TradeInfo allows a subscribing member to download records of their orders and executions for record-keeping purposes.

The Exchange proposes to align the description of TradeInfo on Phlx with the description that was filed for The Nasdaq Options Market LLC and Nasdaq BX, Inc., where this service is also offered.[4] The proposed description on those markets provided that TradeInfo permits a member to: (i) Search all orders submitted in a particular security or all orders of a particular type, regardless of their status (open, canceled, executed, etc.); (ii) cancellation of open orders at the order, port or firm mnemonic level; and (iii) a view of orders and executions; and download of orders and executions for recordkeeping purposes. The Exchange proposes to add to this description that TradeInfo is a user interface, as compared to a data stream, to add more detail to the description. While some descriptive language is being removed from the rules, such as permitting a subscribing member to scan other order statuses, such as executed, cancelled, broken, rejected and suspended orders, the Exchange believes that this language is covered in the current description in that the text indicates that all orders may be searched regardless of their status. Similarly, the description which provides that a subscribing member may generate reports of execution, order or cancel information, which can be exported into a spreadsheet for review is covered in that the Exchange notes that a view of the orders and execution may be downloaded. Finally, the Exchange proposes to rename ''TradeInfo'' as ''TradeInfo PHLX Interface'' to make it consistent with the naming of this offering on NOM and BX.

The Exchange considers it appropriate to memorialize the order and execution information available on Phlx within a rule so that members may understand the trade information which is available on the Exchange as it pertains to a firm's trading information. This data is available to all members regarding that members' transactions. Pricing for all ports is included in the Exchange's Pricing Schedule at VII, B.[5]

Rule1070(a)

The Exchange proposes minor changes to Rule 1070(a)(1) and (2) to change the language to indicate the Top of PHLX Options and PHLX Orders each separately are data feeds and removing the ''A'' before the description. As mentioned above, the numbering is also being amended with the PHLX Depth of Market description within Rule 1070(a)(3).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest, by providing greater transparency as to the order and execution information offered on Phlx. The Exchange notes that it described TradeInfo in a prior rule change.[8] The Exchange believes that memorializing this information within a rule and updating the information will provide market participants with a list of information available specific to their trading on Phlx. The Exchange believes that this proposal is consistent with the Act because it provides information on the content available to market participants regarding the trades they execute on Phlx.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal does not impose an undue burden on competition, rather the Exchange is seeking to provide greater transparency within its rules with respect to the various order and execution information offered on Phlx.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become

[3] *See* Securities Exchange Act Release No. 66284 (February 1, 2012), 77 FR 6162 (February 7, 2012) (SR–Phlx–2012–04) (''TradeInfo Filing'').

[4] *See* Securities Exchange Act Release Nos. 65180 (August 22, 2011), 76 FR 53521 (August 26, 2011) (SR–NASDAQ–2011–111); and 60826 (October 14, 2009), 74 FR 54605 (October 22, 2009) (SR–BX–2009–062).

[5] *See also* SR–Phlx–2018–34 (not yet published) which proposes conforming changes to the fee schedule.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *See* note 3.

effective pursuant to Section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) [9] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[10] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that such waiver will allow it to update its rules immediately to provide more information regarding the order and execution information it offers and further the protection of investors and the public interest because it will provide greater transparency as to the trade detail available to members. For this reason, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest and, therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

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–Phlx–2018–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2018–33. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2018–33 and should be submitted on or before June 5, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10256 Filed 5–14–18; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Disaster Declaration #15509; COLORADO Disaster Number CO–00090]

Declaration of Economic Injury; Administrative Declaration of an Economic Injury Disaster for the State of Colorado

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Colorado, dated 05/07/2018.

Incident: Drought.

Incident Period: 01/02/2018 through 04/15/2018.

DATES: Issued on 05/07/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/07/2019.

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 Administrator's EIDL declaration, applications for economic injury 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: San Juan.

Contiguous Counties:

Colorado: Dolores, Hinsdale, La Plata, Montezuma, Ouray, San Miguel.

The Interest Rates are:

	Percent
Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere	3.385
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for economic injury is 155090.

The State which received an EIDL Declaration # is COLORADO.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: May 7, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–10361 Filed 5–14–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15516 and #15517; NORTH CAROLINA Disaster Number NC–00097]

Presidential Declaration of a Major Disaster for the State of North Carolina

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 North Carolina (FEMA–4364–DR), dated 05/08/2018.

Incident: Tornado and Severe Storms.

Incident Period: 04/15/2018.

DATES: Issued on 05/08/2018.

Physical Loan Application Deadline Date: 07/09/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/08/2019.

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 05/08/2018, 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): Guilford, Rockingham.

Contiguous Counties (Economic Injury Loans Only):

North Carolina: Alamance, Caswell, Davidson, Forsyth, Randolph, Stokes.

Virginia: Henry, Pittsylvania.

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 15516C and for economic injury is 155170.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–10286 Filed 5–14–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15507 and #15508; OKLAHOMA Disaster Number OK–00120]

Administrative Declaration of a Disaster for the State of Oklahoma

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Oklahoma dated 05/04/2018.

Incident: Wildfires.

Incident Period: 04/11/2018 through 04/20/2018.

DATES: Issued on 05/04/2018.

Physical Loan Application Deadline Date: 07/03/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/04/2019.

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 Administrator's disaster declaration, 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: Dewey.

Contiguous Counties:

Oklahoma: Blaine, Custer, Ellis, Major, Roger Mills, Woodward.

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 15507 5 and for economic injury is 15508 0.

The State which received an EIDL Declaration # is Oklahoma.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: May 4, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–10363 Filed 5–14–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15510 and #15511; Illinois Disaster Number IL–00051]

Administrative Declaration of a Disaster for the State of Illinois

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Illinois dated 05/07/2018.

Incident: Severe Storms and Flooding.

Incident Period: 02/14/2018 through 03/04/2018.

DATES: Issued on 05/07/2018.

Physical Loan Application Deadline Date: 07/06/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/07/2019.

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 Administrator's disaster declaration, 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: Iroquois, Kankakee, Vermilion.

Contiguous Counties:

Illinois: Champaign, Douglas, Edgar, Ford, Grundy, Livingston, Will.

Indiana: Benton, Lake, Newton, Vermillion, Warren.

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 15510 6 and for economic injury is 15511 0.

The States which received an EIDL Declaration # are Illinois, Indiana.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: May 7, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–10362 Filed 5–14–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15501 and #15502; MASSACHUSETTS Disaster Number MA–00072]

Administrative Declaration of a Disaster for the Commonwealth of Massachusetts

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Massachusetts dated 05/04/2018.

Incident: Severe Storms and Flooding.

Incident Period: 03/02/2018 through 03/03/2018.

DATES: Issued on 05/04/2018.

Physical Loan Application Deadline Date: 07/03/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 02/04/2019.

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 Administrator's disaster declaration, 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: Norfolk.

Contiguous Counties:

Massachusetts: Bristol, Middlesex, Plymouth, Suffolk, Worcester.

Rhode Island: Providence.

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 15501 B and for economic injury is 15502 0.

The States which received an EIDL Declaration # are Massachusetts, Rhode Island.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: May 4, 2018.

Linda E. McMahon,

Administrator.

[FR Doc. 2018–10364 Filed 5–14–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10408]

Notice of Charter Renewal

The Department of State has renewed the Charter of the Advisory Committee on Cyber and International Communications and Information Policy (ACCICIP) for a period of two years. The name of the Committee has been changed to reflect the combined oversight of cyber and international information and communications policy issues within the Department of State by including the word ''Cyber.''

The Committee serves the Department of State in a solely advisory capacity regarding current issues and concerns affecting cyber and international communications and information policy. ACCICIP members are private sector communications and information technology policy specialists from U.S. telecommunications companies, trade associations, policy institutions, and academia.

For further information, please call Joseph Burton, Executive Secretary, Advisory Committee on Cyber and International Communications and Information Policy, Division of International Communications and Information Policy, Economic and Business Affairs Bureau, U.S. Department of State at (202) 647–5231.

Douglas C. May,

Director, Technology & Security Policy, International Communications and Information Policy, Department of State.

[FR Doc. 2018–10282 Filed 5–14–18; 8:45 am]

BILLING CODE 4710–AE–P

SUSQUEHANNA RIVER BASIN COMMISSION

Commission Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold its regular business meeting on June 15, 2018, in Baltimore, Maryland. Details concerning the matters to be addressed at the business meeting are contained in the

SUPPLEMENTARY INFORMATION section of this notice.

DATES: The meeting will be held on Friday, June 15, 2018, at 9 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza Baltimore Downtown-Inner Harbor, Carroll Room, 105 West Fayette Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Gwyn Rowland, Manager, Governmental & Public Affairs, 717–238–0423, ext. 1316.

SUPPLEMENTARY INFORMATION: The business meeting will include actions or presentations on the following items: (1) Informational presentation of interest to the lower Susquehanna River region; (2) election of Commission officers for FY2019; (3) the proposed FY2019 Regulatory Program Fee Schedule; (4) adoption of a preliminary expense budget for FY2020; (5) adoption of member allocations for FY2020; (6) ratification/approval of contracts/grants; (7) a proposed records retention policy; (8) a resolution on delegation of settlement authority; (9) a report on delegated settlements; (10) the proposed Water Resources Program for fiscal years 2019 through 2021; (11) amendments to the *Comprehensive Plan for the Water Resources of the Susquehanna River Basin;* and (12) Regulatory Program projects.

Projects, the fee schedule, the records retention policy and amendments to the Comprehensive Plan listed for Commission action are those that were the subject of a public hearing conducted by the Commission on May 10, 2018, and identified in the notice for such hearing, which was published in 83 FR 15665, April 11, 2018.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects, the fee schedule, the records retention policy and amendments to the Comprehensive Plan were subject to a deadline of May 21, 2018. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Such comments are due to the Commission on or before June 8, 2018. Comments will not be accepted at the business meeting noticed herein.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: May 10, 2018.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2018–10349 Filed 5–14–18; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2018–0045]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 27, 2018, the Federal Railroad Administration (FRA) received a petition from Burlington Junction Railway (BJRY) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 223. FRA assigned the petition Docket Number FRA–2018–0045.

Specifically, BJRY seeks a waiver of compliance from the glazing regulations in 49 CFR 223.11, *Requirements for existing locomotives,* for one locomotive, identified as BJRY Locomotive Number 3236. This locomotive was originally manufactured by Baldwin Locomotive Works in 1954 as part of an Army defense project, and was remanufactured in 1988. The locomotive is currently housed in Burlington, IA, and does not have FRA-compliant glazing.

BJRY intends to use this locomotive as a backup to their primary locomotive when it is down for inspections or repairs. Locomotive BJRY 3236 will be used for freight car switching in an industrial area on approximately 1.5 miles of track. The route consists of one overpass and six public grade crossings. The maximum speed that this locomotive will operate is 10 miles per hour.

BJRY provided documentation from the City of Burlington showing no train accidents and seven reports of criminal mischief (vandalism to vehicles) for the past three years. BJRY believes that this locomotive can be safely operated throughout the area with the current non-compliant glazing. The cost to BJRY for installation of all new window frames and compliant FRA Type I & II glazing is significant, with only a marginal increase in safety due to the limited use, short route, and low speed.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by June 29, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2018–10274 Filed 5–14–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation Advisory Board—Notice of Public Meetings

AGENCY: Saint Lawrence Seaway Development Corporation (SLSDC); DOT.

ACTION: Notice of Public Meeting.

SUMMARY: This notice announces the public meeting via conference call of the Saint Lawrence Seaway Development Corporation Advisory Board.

DATES: The public meeting will be held on (all times Eastern):

- Wednesday, June 6, 2018 from 2:00 p.m.–4:00 p.m. EST

ADDRESSES: The meeting will be held via conference call at the SLSDC's Policy Headquarters, 55 M Street SE, Suite 930, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Wayne Williams, Chief of Staff, Saint Lawrence Seaway Development Corporation, 1200 New Jersey Avenue SE, Washington, DC 20590; 202–366–0091.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC). The agenda for this meeting will be as follows:

June 6, 2018 From 2:00 p.m.–4:00 p.m. EST

1. Opening Remarks
2. Consideration of Minutes of Past Meeting
3. Quarterly Report
4. Old and New Business
5. Closing Discussion
6. Adjournment.

Public Participation

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, not later than Tuesday, May 22, 2018. Any member of the public may present a written statement to the Advisory Board at any time.

Issued on: May 9, 2018.

Carrie Lavigne,

Chief Counsel, Saint Lawrence Seaway Development Corporation.

[FR Doc. 2018–10248 Filed 5–14–18; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treas.gov/ofac*).

Notice of OFAC Actions

On May 10, 2018, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authorities listed below.

Individuals

1. AMINI, Meghdad; DOB 05 Jun 1982; POB Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport U36089349 (Iran); National ID No. 0071070222 (Iran) (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(d)(i) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' (E.O. 13224) for assisting in, sponsoring, or providing financial, material, techological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

2. KHODA'I, Mohammad Hasan (a.k.a. KALANTARI, Sajjad); DOB 21 Sep 1983; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; National ID No. 444–973367–3 (Iran) (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

3. NAJAFPUR, Sa'id (a.k.a. CHEKOSARI, Sa'id Najafpur; a.k.a. NAJAFPUR, Behnam; a.k.a. ''DADR, Behnam''; a.k.a. ''SADR, Behnam''); DOB 1980; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

4. NIKBAKHT, Mas'ud (a.k.a. MAS'UD, Abu Ali; a.k.a. NOBAKHT, Mas'ud; a.k.a. NOWBAKHT, Mas'ud; a.k.a. NOWBAKHT, Sa'id); DOB 28 Dec 1961; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport 9004318; alt. Passport 9011128; alt. Passport 9004398 (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)-QODS FORCE).

Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

5. SALEHI, Foad (a.k.a. BASAIR, Foad Salehi; a.k.a. BASIR, Foad Salehi); DOB 28 Apr 1986; POB Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport J37945161 (Iran); National ID No. 0077849248 (Iran) (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE; Linked To: VALADZAGHARD, Mohammadreza Khedmati).

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, techological support for, or financial or other services to or in support of Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, techological support for, or financial or other services to or in support of MOHAMMADREZA KHEDMATI VALADZAGHARD, a person determined to be subject to E.O. 13224.

6. VALADZAGHARD, Mohammadreza Khedmati; DOB 05 Apr 1986; POB Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Gender Male; Passport N35635875; National ID No.

0081798301; Birth Certificate Number 11770 (individual) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE).

Designated pursuant to section 1(d)(i) of E.O. 13224 for assisting in, sponsoring, or providing financial, material, techological support for, or financial or other services to or in support of, Iran's ISLAMIC REVOLUTIONARY GUARD CORPS–QODS FORCE, a person determined to be subject to E.O. 13224.

Entities

1. JAHAN ARAS KISH, No. 5 Jam Tower, Unit 31, 6th Floor, Bidar Street, Elahieh, Tehran, Iran; No. 716 Sarina Tower 1, 7th Floor, Kish, Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Registration ID 10877 (Iran) [SDGT] [IRGC] [IFSR] (Linked To: ISLAMIC REVOLUTIONARY GUARD CORPS (IRGC)–QODS FORCE; Linked To: NAJAFPUR, Sa'id).

Designated pursuant to section 1(c) of E.O. 13224 for being owned or controlled by SA'ID NAJAFPUR, a person determined to be subject to E.O. 13224.

2. JOINT PARTNERSHIP OF MOHAMMADREZA KHEDMATI AND ASSOCIATES (a.k.a. KHEDMATI AND COMPANY JOINT PARTNERSHIP); Additional Sanctions Information—Subject to Secondary Sanctions; National ID No. 14006467155 (Iran); Registration ID 503586 (Iran) [SDGT] [IRGC] [IFSR] (Linked To: VALADZAGHARD, Mohammadreza Khedmati; Linked To: KHODA'I, Mohammad Hasan).

Designated pursuant to section 1(c) of E.O. 13224 for being owned or controlled by MOHAMMADREZA KHEDMATI VALADZAGHARD, a person determined to be subject to E.O. 13224.

Designated pursuant to section 1(c) of E.O. 13224 for being owned or controlled by MOHAMMAD HASAN KHODA'I, a person determined to be subject to E.O. 13224.

3. RASHED EXCHANGE (a.k.a. SARAFI RASHED); website *www.Rashedexchange.com;* Additional Sanctions Information—Subject to Secondary Sanctions; National ID No. 14006467155 (Iran); Registration ID 503586 (Iran); Commercial Registry Number 0411518776478 (Iran) [SDGT] [IRGC] [IFSR] (Linked To: VALADZAGHARD, Mohammadreza Khedmati).

Designated pursuant to section 1(c) of E.O. 13224 for being owned or controlled by MOHAMMADREZA KHEDMATI VALADZAGHARD, a person determined to be subject to E.O. 13224.

Dated: May 10, 2018.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2018–10357 Filed 5–14–18; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

Notice of Funding Availability

AGENCY: Department of Veterans Affairs (VA), Veterans Health Administration (VHA), VA Homeless Providers Grant and Per Diem Program.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: VA is announcing the availability of 1-year renewal funding for the 12 currently operational fiscal year (FY) 2018 VA Homeless Providers Grant and Per Diem (GPD) Program Special Need Grant recipients and their collaborative VA Special Need partners (as applicable) to submit renewal applications for assistance under the Special Need Grant component of VA's Homeless Providers GPD Program. The focus of this NOFA is to encourage applicants to continue to deliver services to the homeless Special Need Veteran population. This NOFA contains information concerning the program, application process, and amount of funding available.

DATES: An original completed signed and dated renewal application for assistance under VA's GPD Program and associated documents, must be received by the GPD Program Office by 4:00 p.m. Eastern Time on Friday, June 22, 2018. (see application requirements below).

Applications may not be sent by facsimile. In the interest of fairness to all competing applicants, this deadline is firm as to date and time, and VA will treat any application that is received after the deadline as ineligible for consideration. Applicants should make early submission of their materials to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems.

ADDRESSES: An original signed, dated, completed, and collated grant renewal application and all required associated documents must be submitted to the following address: VA Homeless Providers GPD Program Office, 10770 N 46th Street, Suite C–200, Tampa, Florida 33617. Applications must be received by the application deadline. Applications must arrive as a complete package. Materials arriving separately *will not* be included in the application package for consideration and may result in the application being rejected or not funded.

FOR FURTHER INFORMATION CONTACT: Ms. Chelsea Watson, Deputy Director, VA Homeless Providers GPD Program, Department of Veterans Affairs, 10770 N 46th Street, Suite C–200, Tampa, Florida 33617; (toll-free) 1–(877) 332–0334.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Description

This NOFA announces the availability of funds to provide 1-year funding assistance in FY 2019 under VA's Homeless Providers GPD Program for the 12 operational GPD Special Need recipients, and their collaborative VA partners (as applicable). Eligible applicants may obtain grant assistance to cover additional operational costs that would not otherwise be incurred, but for the fact that the recipient is providing supportive housing beds and services for the following Special Needs homeless Veteran populations:

(1) Women;

(2) Frail elderly;

(3) Chronically mentally ill; or

(4) Individuals who have care of minor dependents.

Definitions of key terms relating to these populations are contained in 38 Code of Federal Regulations (CFR) 61.1 Definitions. Eligible applicants should review these definitions to ensure their proposed populations meet the specific requirements.

Funding applied for under this NOFA may be used for the provision of service and operational costs to facilitate the following for each targeted group:

Women

(1) Ensure transportation for women, especially for health care and educational needs; and

(2) Address safety and security issues including segregation from other program participants if deemed appropriate.

Frail Elderly

(1) Ensure the safety of the residents in the facility, including preventing harm and exploitation;

(2) Ensure opportunities to keep residents mentally and physically agile to the fullest extent through the incorporation of structured activities, physical activity, and plans for social engagement within the program and in the community;

(3) Provide opportunities for participants to address life transitional issues and separation and/or loss issues;

(4) Provide access to assistance devices, such as walkers, grippers, or other devices necessary for optimal functioning;

(5) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(6) Provide opportunities for participants either directly or through

referral, for other services particularly relevant for the frail elderly, including services or programs addressing emotional, social, spiritual, and generative needs.

Chronically Mentally Ill

(1) Help participants join in and engage with the community;

(2) Facilitate reintegration with the community and provide services that may optimize reintegration, such as life-skills education, recreational activities, and follow-up case management;

(3) Ensure that participants have opportunities and services for re-establishing relationships with family;

(4) Ensure adequate supervision, including supervision of medication and monitoring of medication compliance; and

(5) Provide opportunities for participants, either directly or through referral, to obtain other services particularly relevant for a chronically mentally ill population, such as vocational development, benefits management, fiduciary or money, management services, medication compliance, and medication education.

Individuals Who Have Care of Minor Dependents

(1) Ensure transportation for individuals who have care of minor dependents, and their minor dependents, especially for health care and educational needs;

(2) Provide directly or offer referrals for adequate and safe child care;

(3) Ensure children's health care needs are met, especially age-appropriate wellness visits and immunizations; and

(4) Address safety and security issues, including segregation from other program participants if deemed appropriate.

Authority: 38 United States Code §§ 2011, 2012, 2061, as implemented in regulation at 38 CFR 61.

Award Information

Overview: This NOFA announces the availability of 1-year renewal funding for use in FY 2019 for the 12 currently operational FY 2018 VA Homeless Providers GPD Program Special Need Grant recipients and their collaborative VA Special Need partners (as applicable) to submit renewal applications for assistance under the Special Need Grant component of VA's Homeless Providers GPD Program.

Funding Priorities: None.

Allocation of Funds: Approximately $3 million is available for the current Special Need grant component of VA's Homeless Providers GPD Program. Funding will be for a period beginning on October 1, 2018, and ending on September 30, 2019. The Special Need per diem payment will be the lesser of:

1. One hundred percent of the daily cost of care estimated by the Special Need grant recipient for furnishing services to homeless Veterans with Special Needs that the Special Need grant recipient certifies to be correct, minus any other sources of income; or

2. Two times the current VA State Home Program per diem rate for domiciliary care.

Special Need awards are subject to: FY 2019 funds availability; the recipient meeting the performance goals as stated in the grant application; statutory and regulatory requirements; and annual inspections.

Applicants should ensure their funding requests and operational costs are based on the 12-month period above and should be approximately in line with prior year expenditures. Requests cannot exceed the amount obligated under their FY 2018 award. Applicants should note unexpended funding from FY 2018 will be de-obligated.

Funding Actions: Applicants will be notified of any further additional information needed to confirm or clarify information provided in the application. Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any one of the conditions for grant award within the specified time frame, VA reserves the right to not award funds to that applicant and to use the funds available for other Special Need applicants. Following receipt and confirmation that this information is accurate and in acceptable form, the applicant will execute an agreement with VA in accordance with 38 CFR 61.61.

Grant Award Period: Applicants that are selected will have a maximum of 1 year beginning on October 1, 2018, and ending on September 30, 2019, to utilize the Special Need funding. Funds unexpended after the September 30, 2019, deadline will be de-obligated.

Funding Restrictions: No part of a Special Need grant may be used for any purpose that would significantly change the scope of the specific GPD project for which a capital GPD was awarded. As a part of the review process, VA will review the original project and subsequent approved program changes of the previous FY 2016 Original Special Need applications and the FY 2018 renewal applications, to ensure significant scope changes have not occurred, displacing other homeless Veteran populations.

Note: Changes to the Special Need population the applicant currently serves will not be allowed.

Special Need funding may not be used for capital improvements, or to purchase vans or real property. However, the leasing of vans or real property may be acceptable. Questions regarding acceptability should be directed to VA's National GPD Program Office at the number listed in Contact Information. Applicants may not receive Special Need funding to replace funds provided by any Federal, state, or local Government agency or program to assist homeless persons.

Eligibility Information

To be eligible, an applicant must be a currently operational FY 2018 VA Homeless Providers GPD Program Special Need Grant recipient with or without a collaborative VA Special Need partner. If the applicant was not funded under the VA Homeless Providers GPD Program NOFA published in the **Federal Register** on December 23, 2016, 81 FR 94487–94494, they will be deemed ineligible for an award under this NOFA as the applicant must have an operational VA Homeless Providers GPD grant on October 1, 2018, in order to receive Special Need funding. Furthermore, if the applicant currently has a collaborative project and its VA partner no longer wishes to continue, the applicant will be ineligible for an award under this NOFA.

Cost Sharing or Matching: None.

Application Requirements and Submission Information

Content and Form of Application: Applicants should ensure that they include all required documents in their application and carefully follow the format described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected at the beginning of the process. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other Special Need applicants.

Application Documentation Required

1. *Letter from Applicant:* Applicants must submit a letter on their organization's letterhead stating their intent to apply for renewal funding and agreement for VA to evaluate their previously awarded FY 2016 Special Need application and FY 2018 renewal application for scoring purposes. In addition, the letter must state the model

(see listing below) to which that application will be linked and that the applicant agrees, as a condition of funding under this NOFA, that they will provide the services as outlined in that application, along with any VA-approved changes in scope, and that the applicant's FY 2016 required forms and certifications still apply for the period of this award.

Models: Bridge Housing; Low Demand; Clinical Treatment; Hospital to Housing; or Service Intensive Transitional Housing.

2. *Performance Goals:* Applicants must submit documentation of the applicant meeting the performance goals as stated in the FY 2016 original grant Special Need application and carried forward to their FY 2018 renewal application, as evidenced by their last VA project inspection.

3. *Letter from VA Collaborative Partner (if applicable):* If the FY 2016 Special Need grant was a collaborative grant, the applicant must submit an updated letter of commitment, or an updated Memorandum of Agreement (MOA) from the VA collaborative partner stating that VA will continue to meet its objectives, or provide its duties as outlined in the original MOA in FY 2016. Note: If the applicant currently has a collaborative project and its VA partner no longer wishes to continue then the applicant will be ineligible for an award under this NOFA.

Other Submission Requirements: None.

Submission Dates and Times: An original signed and dated application package, including all required documents, must be received in the GPD Program Office, VA Homeless Providers GPD Program Office, 10770 N 46th Street, Suite C–200, Tampa, Florida, 33617; by 4:00 p.m. Eastern Standard Time on Friday, June 22, 2018.

Applications must be received by the application deadline. Applications must arrive as a complete package, to include VA collaborative partner materials (see Application Requirements). Materials arriving separately *will not* be included in the application package for consideration and may result in the application being rejected or not funded.

In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat any application that is received after the deadline as ineligible for consideration. Applicants should take this firm deadline into account and make early submission of their materials to avoid any risk of loss of eligibility as a result of unanticipated delays or other delivery-related problems.

Applications must be physically delivered (*e.g.,* in person, or via United States Postal Service, FedEx, United Parcel Service, or any other type of courier). The VA GPD Program Office staff will accept the application and date stamp it immediately at the time of arrival. This is the date and time that will determine if the deadline is met for those types of delivery.

DO NOT fax or email the application as it will be treated as ineligible for consideration.

Application Review Information

A. *Criteria for Special Need Grants:* Rating criteria may be found at 38 CFR 61.40.

B. *Review and Selection Process:* Review and selection process may be found at 38 CFR 61.40.

Selections will be made based on criteria described in the FY 2016 application and additional information as specified in this NOFA.

Award Notice: Although subject to change, the GPD Program Office expects to announce grant awards during the late fourth quarter of FY 2018 (September). The initial announcement will be made via news release which will be posted on VA's National GPD Program website at *www.va.gov/homeless/gpd.asp.* Following the initial announcement, the GPD Office will mail notification letters to the grant recipients. Applicants who are not selected will be mailed a declination letter within 2 weeks of the initial announcement.

Administrative and National Policy: It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless Veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

Awardees will be required to support their request for payments with adequate fiscal documentation as to income and expenses.

All awardees that are selected in response to *this NOFA* must meet the requirements of the current edition of the Life Safety Code of the National Fire Protection Association as it relates to their specific facility. Applicants should note that all facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code. Applicants should consider this when submitting their grant applications, as no additional funds will be made available for capital improvements under this NOFA.

Each program receiving Special Need funding will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless Veterans in the program.

Monitoring will include at a minimum, a quarterly review of each per diem program's progress toward meeting performance goals, including the applicant's internal goals and objectives in helping Veterans attain housing stability, adequate income support, and self-sufficiency as identified in each per diem program's original application. Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure payment is accurate.

Each funded program will participate in VA's national program monitoring and evaluation as these monitoring procedures will be used to determine successful accomplishment of these housing outcomes for each per diem-funded program.

Applicants with questions regarding the funding from previous Special Need awards should contact the VA Homeless Providers GPD Program Office prior to application.

A full copy of the regulations governing the GPD Program is available at the GPD website at *http://www.va.gov/HOMELESS/GPD.asp.*

For Further Information Contact: Mr. Jeffery L. Quarles, Director, VA Homeless Providers Grant and Per Diem Program, Department of Veterans Affairs, 10770 N 46th Street, Suite C–200, Tampa, Florida, 33617; (toll-free) 1-(877) 332–0334.

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 VA. Peter M. O'Rourke approved this document on May 9, 2018, for publication.

Dated: May 10, 2018.

Michael Shores,

Director, Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2018–10311 Filed 5–14–18; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 83 Tuesday,

No. 94 May 15, 2018

Part II

The President

Notice of May 14, 2018—Continuation of the National Emergency With Respect to Yemen

Federal Register
Vol. 83, No. 94
Tuesday, May 15, 2018

Presidential Documents

Title 3—

The President

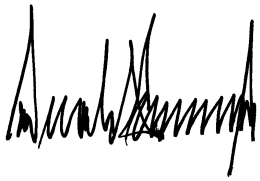
Notice of May 14, 2018

Continuation of the National Emergency With Respect to Yemen

On May 16, 2012, by Executive Order 13611, the President declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the actions and policies of certain former members of the Government of Yemen and others that threaten Yemen's peace, security, and stability. These actions include obstructing the political process in Yemen and blocking implementation of the agreement of November 23, 2011, between the Government of Yemen and those in opposition to it, which provided for a peaceful transition of power that meets the legitimate demands and aspirations of the Yemeni people.

The actions and policies of certain former members of the Government of Yemen and others in threatening Yemen's peace, security, and stability continue 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 16, 2012, to deal with that threat must continue in effect beyond May 16, 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 13611.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
May 14, 2018.

[FR Doc. 2018–10534
Filed 5–14–18; 11:15 am]
Billing code 3295–F8–P

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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/.**

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