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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2012–BT–STD–0045]

RIN 1904–AC87

Energy Conservation Program: Energy Conservation Standards for Ceiling Fan Light Kits

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) is publishing this final rule to amend the compliance date for energy conservation standards for ceiling fan light kits (CFLKs). The energy conservation standards for CFLKs were issued by DOE on January 6, 2016, and compliance with the standards was required on January 7, 2019. The ''Ceiling Fan Energy Conservation Harmonization Act,'' subsequently deemed the compliance date for DOE's CFLKs standards to be January 21, 2020, and required DOE to amend its regulation to reflect this requirement. DOE is also updating a cross-reference in the regulations that was mistakenly not updated when the ceiling fan energy conservation standards were codified.

DATES: This rule is effective May 16, 2018. The compliance date for the standards established for CFLKs is January 21, 2020.

FOR FURTHER INFORMATION CONTACT:

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Elizabeth Kohl, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Avenue SW, Washington DC 20585–0121. Telephone (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6309, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include CFLKs, the subject of this document. Section 325(ff)(5) of EPCA authorizes DOE to consider amended standards for CFLKs. On January 6, 2016 DOE promulgated an energy conservation standard for CFLKs with a compliance date of 3 years after the date of issuance, or January 7, 2019. Section 325(ff)(5) required that the compliance date of the standards be at least 2 years after the date of issuance, and the 3 year lead time DOE specified in the final standards rule is consistent with other provisions of EPCA that require a 3-year lead time for some products. Section 325(ff)(6) of EPCA also authorizes DOE to consider amended standards for ceiling fans, as a separate product under the statute. DOE promulgated an energy conservation standard for ceiling fans on January 19, 2017. The compliance date for the ceiling fan standards rule is January 21, 2020. Section 325(ff)(6) did not have a similar provision regarding the compliance date for ceiling fan standards; however, as with the CFLK rule, the 3 year lead time DOE specified in the final standards rule is consistent with other provisions of EPCA that require a 3-year lead time for some products.

After DOE's promulgation of final rules establishing energy conservation standards for CFLKs and Ceiling Fans, Congress enacted S. 2030, the ''Ceiling Fan Energy Conservation Harmonization Act'' (''the Act''), which was signed into law as Public Law 115–161 on April 3, 2018. The Act amended the compliance date for the CFLK standards to establish a single compliance date for the energy conservation standards for both CFLKs and ceiling fans. The Act also required that DOE, not later than 60 days after the date of enactment, make any technical and conforming changes to any regulation, guidance document, or procedure necessary to implement the changed compliance date. This action codifies Congress's revision of the compliance date for CFLKs in DOEs regulations at 10 CFR 430.32(s).

DOE is also updating a cross reference in 10 CFR 430.32(s)(5), changing the reference to paragraph (s)(2) or (3) to paragraph (s)(3) or (4). Paragraph (s)(5) provides requirements for ceiling fan light kits other than those specified in the cross-referenced paragraphs, which were not updated when the new ceiling fan standards were codified as paragraph (s)(2).

In light of the applicable statutory requirement enacted by Congress to deem the compliance date for CFLK standards to be January 21, 2020, the absence of any benefit in providing comment given that the rule incorporates the specific requirement established by Public Law 115–161, DOE finds that there is good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the actions outlined in this document to implement Public Law 115–161. DOE similarly finds good cause under 5 U.S.C. 553(b)(B) to not provide prior notice and an opportunity for public comment on the update to the erroneous cross-reference. For these reasons, providing prior notice and an opportunity for public comment would, in this instance, be unnecessary and contrary to the public interest. For the same reason, DOE finds good cause pursuant to 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for this rule.

Procedural Requirements

A. Review Under Executive Order 12866, ''Regulatory Planning and Review''

This final rule is not a ''significant regulatory action'' under any of the criteria set out in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under Executive Order 13771

On January 30, 2017, the President issued Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs.'' That Order stated the policy of the executive branch is to be prudent and financially responsible in the expenditure of funds, from both

public and private sources. The Order stated it is essential to manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations. This final rule is expected to be an E.O. 13771 deregulatory action.

Additionally, on February 24, 2017, the President issued Executive Order 13777, ''Enforcing the Regulatory Reform Agenda.'' The Order required the head of each agency designate an agency official as its Regulatory Reform Officer (RRO). Each RRO oversees the implementation of regulatory reform initiatives and policies to ensure that agencies effectively carry out regulatory reforms, consistent with applicable law. Further, E.O. 13777 requires the establishment of a regulatory task force at each agency. The regulatory task force is required to make recommendations to the agency head regarding the repeal, replacement, or modification of existing regulations, consistent with applicable law. At a minimum, each regulatory reform task force must attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation;

(ii) Are outdated, unnecessary, or ineffective;

(iii) Impose costs that exceed benefits;

(iv) Create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies;

(v) Are inconsistent with the requirements of Information Quality Act, or the guidance issued pursuant to that Act, in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard for reproducibility; or

(vi) Derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.

DOE concludes that this final rule is consistent with the directives set forth in these executive orders. Specifically, this final rule is a deregulatory action to implement Public Law 115–161, which amended the compliance date for the CFLK standards to establish a single compliance date for the energy conservation standards for both CFLKs and ceiling fans. This action is estimated to result in cost savings. Assuming a 7 percent discount rate, this final rule would yield annualized cost savings of approximately $0.29 million (2016$).

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, *Proper Consideration of Small Entities in Agency Rulemaking,* 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. The Department has made its procedures and policies available on the Office of General Counsel's website: *http://www.gc.doe.gov.* DOE is revising the Code of Federal Regulations to incorporate, without change, a revised compliance date prescribed by Public Law 115–161. Because this is a technical amendment for which a general notice of proposed rulemaking is not required, the analytical requirements of the Regulatory Flexibility Act do not apply to this rulemaking.

D. Review Under the Paperwork Reduction Act of 1995

This rulemaking imposes no new information or recordkeeping requirements. Accordingly, Office of Management and Budget clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 *et seq.*)

E. Review Under the National Environmental Policy Act of 1969

DOE has determined that this rule is covered under the Categorical Exclusion found in DOE's National Environmental Policy Act regulations at paragraph A.6 of appendix A to subpart D, 10 CFR part 1021, which applies to rulemakings that are strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

F. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism.'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this final rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

G. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory

actions on State, local, and Tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a),(b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *http://www.gc.doe.gov*). This final rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements under the UMRA do not apply.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This final rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this rulemaking under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This final rule would not have a significant adverse effect on the supply, distribution, or use of energy and, therefore, is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Small businesses.

Issued in Washington, DC, on May 9, 2018.

Daniel R. Simmons,

Principal Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE hereby amends chapter II, subchapter D, of title 10 of the Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

§ 430.32 [Amended]

■ 2. Section 430.32 is amended by:

■ a. In paragraphs (s)(3), (4), (5), and (6), removing the language ''January 7, 2019'' each place it appears and adding in its place ''January 21, 2020''.

■ b. In paragraph (s)(5), removing the language ''paragraphs (s)(2) or (3)'' and adding in its place ''paragraph (s)(3) or (4)''.

[FR Doc. 2018–10440 Filed 5–15–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2018–0413; Product Identifier 2018–NM–061–AD; Amendment 39–19283; AD 2018–10–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are superseding Airworthiness Directive (AD) 2016–09–05, which applied to certain The Boeing Company Model 717–200 airplanes. AD 2016–09–05 required a detailed inspection for distress of the vertical

stabilizer leading edge skin, and related investigative and corrective actions if necessary. It also required, for certain airplanes, repetitive inspections of the front spar cap for any loose or missing fasteners, or any cracking, and related investigative and corrective actions if necessary. This AD requires repetitive inspections for distress, cracking, and loose or missing fasteners in the vertical stabilizer leading edge skin and front spar cap, with new compliance times for certain airplanes. This AD was prompted by reports of cracking in the leading edge of the vertical stabilizer and front spar web. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 31, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 31, 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–2018–0413.

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–2018–0413; 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: Muoi Vuong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *muoi.vuong@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued AD 2016–09–05, Amendment 39–18503 (81 FR 26673, May 4, 2016) (''AD 2016–09–05''), for certain The Boeing Company Model 717–200 airplanes. AD 2016–09–05 required a detailed inspection for any distress of the vertical stabilizer leading edge skin, and related investigative and corrective actions if necessary. It also required, for certain airplanes, repetitive detailed inspections of the front spar cap for any loose or missing fasteners, repetitive eddy current testing high frequency (ETHF) and radiographic testing (RT) inspections of the front spar cap for any crack, and related investigative and corrective actions if necessary. AD 2016–09–05 resulted from reports of 10 cases of elongated fastener holes in the vertical stabilizer leading edge. We issued AD 2016–09–05 to address cracking in the vertical stabilizer leading edge and front spar cap, which may result in the structure becoming unable to support limit load, and may lead to the loss of the vertical stabilizer.

Actions Since AD 2016–09–05 Was Issued

Since we issued AD 2016–09–05, four cases of elongated fastener holes in the vertical stabilizer leading edge and nine cases of front spar cap damage or cracks were reported. Seven of the nine cases involved small cracks of approximately 0.3 inch in the front spar cap. Two of the nine cases involved a severed front spar cap and front spar web cracking, and one also involved skin cracking. The longest cracks, 4.5 inches in length, were discovered in the left skin of the vertical stabilizer leading edge and the front spar web of a Boeing Model 717–200 airplane during an initial inspection required by AD 2016–09–05. We determined that for airplanes on which an initial inspection has not been done as specified in AD 2016–09–05, a revised compliance time is needed. We are issuing this AD to address the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018. The service information describes procedures for doing detailed inspections of the front spar cap for any loose or missing fasteners, ETHF or RT inspections for distress and for cracking in the vertical stabilizer leading edge and front spar cap at the splice at station Zfs=52.267, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are 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

Although this AD does not explicitly restate the requirements of AD 2016–09–05, this AD would retain the requirements of AD 2016–09–05, with revised compliance times for airplanes that have not completed the requirements of AD 2016–09–05. The requirements of AD 2016–09–05 are referenced in the service information identified previously, which, in turn, is referenced in paragraph (g) of this AD.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comment prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the vertical stabilizer leading edge and front spar cap could result in the structure becoming unable to support limit load, and may lead to the loss of the vertical stabilizer. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and 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–2018–0413 and Product Identifier 2018–NM–061–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

We estimate that this AD affects 106 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
Inspections for distress (retained actions from AD 2016–09–05).	11 work-hours × $85 per hour = $935 per inspection cycle.	$0	$935 per inspection cycle.	$99,110 per inspection cycle.
Repetitive inspections for cracking and loose or missing fasteners (retained actions from AD 2016–09–05).	7 work-hours × $85 per hour = $595 per inspection cycle.	0	$595 per inspection cycle.	$63,070 per inspection cycle.

The new requirements of this AD add no additional economic burden.

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 have 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 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) 2016–09–05, Amendment 39–18503 (81 FR 26673, May 4, 2016), and adding the following new AD:

2018–10–08 The Boeing Company: Amendment 39–19283; Docket No. FAA–2018–0413; Product Identifier 2018–NM–061–AD.

(a) Effective Date

This Airworthiness Directive (AD)is effective May 31, 2018.

(b) Affected ADs

This AD replaces AD 2016–09–05, Amendment 39–18503 (81 FR 26673, May 4, 2016) (''AD 2016–09–05'').

(c) Applicability

This AD applies to The Boeing Company Model 717–200 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by multiple reports of the vertical stabilizer leading edge showing signs of fastener distress, multiple cracked or severed front spar caps, and cracks in the left skin of the vertical stabilizer leading edge and in the front spar web, discovered during initial inspections required by AD 2016–09–05. We have determined that a revised compliance time is needed for airplanes on which the initial inspection has not been done as specified in AD 2016–09–05. We are issuing this AD to address cracking in the vertical stabilizer leading edge and front spar cap, which may result in the structure becoming unable to support limit load, and may lead to loss of the vertical stabilizer.

(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 time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018, do all applicable actions identified as ''RC'' (required for compliance) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018.

(h) Exceptions to Service Information Specifications

(1) For purposes of determining compliance with the requirements of this AD: Where Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018, uses the phrase ''the Revision 1 issue date of this service bulletin,'' this AD requires using the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018, 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.

(i) Credit for Previous Actions

(1) This paragraph provides credit for the initial inspection specified in paragraph (g) of this AD, if that inspection was performed before June 8, 2016 (the effective date of AD 2016–09–05), using Boeing MOM–MOM–14–0437–01B(R1), dated July 3, 2014. This service information is not incorporated by reference in this AD.

(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 717–55A0012, dated June 12, 2015. This service information was incorporated by reference in AD 2016–09–05.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2016–09–05 are approved as AMOCs for the corresponding provisions of Boeing Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018, 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 (j)(5)(i) and (j)(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.

(k) Related Information

(1) For more information about this AD, contact: Muoi Vuong, Aerospace Engineer, Airframe Section, FAA, Los Angeles ACO Branch, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *muoi.vuong@faa.gov.*

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

(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 Alert Service Bulletin 717–55A0012, Revision 1, dated April 11, 2018.

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

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

Issued in Des Moines, Washington, on May 8, 2018.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2018–10413 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2018–0250]

Safety Zones; Fireworks and Swim Events in Captain of the Port New York Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones within the Captain of the Port New York Zone on the specified dates and times. This action is necessary to ensure the safety of vessels, spectators and participants from hazards associated with fireworks. During the enforcement period, no person or vessel may enter the safety zones without permission of the Captain of the Port (COTP).

DATES: The regulation for the safety zones described in 33 CFR 165.160 will be enforced on the dates and times listed in the table below.

FOR FURTHER INFORMATION CONTACT: If you have questions regarding this document, call or email Petty Officer First Class Ronald Sampert U.S. Coast Guard; telephone 718–354–4197, email *ronald.j.sampert@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.160 on the specified dates and times as indicated in Tables 1 and 2 below. This regulation was published in the **Federal Register** on November 9, 2011 (76 FR 69614).

TABLE 1

1. 2018 Ellis Island Medals of Honor (N.E.C.O.), Liberty Island Safety Zone, 33 CFR 165.160(2.1).	• Launch site: A barge located in approximate position 40°41′16.5″ N 074°02′23″ W (NAD 1983) located in Federal Anchorage 20–C, about 360 yards east of Liberty Island. This Safety Zone is a 360-yard radius from the barge. • Date: May 12, 2018. • Time: 11:30 p.m.–12:30 a.m.
2. Carnival Horizon Ship Christening, Pier 90 Hudson River Safety Zone, 33 CFR 165.160(5.4).	• Launch site: A barge located in approximate position 40°46′11.8″N, 074°00′14.8″W (NAD 1983) about 375 yards west of Pier 90. This Safety Zone is a 360-yard radius from the barge. • Date: May 23, 2018. • Time: 10:00 p.m.–10:30 p.m.
3. Marist College O.A.C.A.C., Poughkeepsie, NY, Hudson River Safety Zone, 33 CFR 165.160(5.13).	• Launch site: A barge located in approximate position 41°42′24.50″ N, 073°56′44.16″ W (NAD 1983), approximately 420 yards north of the Mid Hudson Bridge. This Safety Zone is a 300-yard radius from the barge. • Date: June 7, 2018. • Time: 8:30 p.m.–9:30 p.m.
4. Boston Consulting Group, Ellis Island Safety Zone, 33 CFR 165.160(2.2).	• Launch site: A barge located between Federal Anchorages 20–A and 20–B, in approximate position 40°41′45″ N, 074°03′42″ W (NAD 1983), about 260 yards south of Ellis Island. This Safety Zone is a 240-yard radius from the barge. • Date: June 8, 2018. • Time: 10:00 p.m.–10:30 p.m.

TABLE 2

5. Newburgh Beacon Swim, Safety Zone, 33 CFR 165.160(1.2)	• Location: Participants will cross the Hudson River between Newburgh, to Beacon, New York approximately 1300 yards south of the Newburgh-Beacon bridges. This Safety Zone includes all waters within a 100-yard radius of each participating swimmer. • Date: July 28, 2018. • Time: 09:00 a.m.–11:30 a.m.

Under the provisions of 33 CFR 165.160, vessels may not enter the safety zones unless given permission from the COTP or a designated representative. Spectator vessels may transit outside the safety zones but may not anchor, block, loiter in, or impede the transit of other vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This document is issued under authority of 33 CFR 165.160(a) and 5 U.S.C. 552(a). In addition to the publication of this document in the **Federal Register**, the Coast Guard will provide mariners with advanced notification of enforcement periods via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that a safety zone need not be enforced for the full duration stated in this notification, a Broadcast Notice to Mariners may be used to grant general permission to enter the safety zone.

Dated: April 27, 2018.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2018–10447 Filed 5–15–18; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2018–0114; FRL–9977–50–OAR]

Removal of the Federal Reformulated Gasoline Program from the Northern Kentucky Portion of the Cincinnati-Hamilton Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final action on petition.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action in announcing its approval of the petition by Kentucky to opt-out of the federal reformulated gasoline (RFG) program and remove the requirement to sell federal RFG for Boone, Campbell, and Kenton counties (the Northern Kentucky Area), which are part of the Cincinnati-Hamilton, Ohio-Kentucky-Indiana maintenance area for the 2008 ozone national ambient air quality standard (NAAQS) (Cincinnati-Hamilton, OH-KY-IN Area). EPA has determined that this removal of the federal RFG program for the Northern Kentucky Area is consistent with the applicable provisions of the Clean Air Act (CAA) and EPA's regulations.

DATES: The effective date for removal of the Northern Kentucky Area from the federal RFG program is July 1, 2018.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343–9256; email address: *dickinson.david@epa.gov* or Rudy Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, (2000 Traverwood, Ann Arbor, MI 48105); telephone number: 734–214–4574; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final action are fuel producers and distributors who do business in the Northern Kentucky Area.

Examples of potentially regulated entities	NAICS [1] codes
Petroleum refineries	324110 424710
Gasoline Marketers and Distributors	424720
Gasoline Retail Stations	447110
Gasoline Transporters	484220 484230

The above table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities of which EPA is aware that potentially could be affected by this final action. Other types of entities not listed on the table could also be affected by this final action. To determine whether your organization could be affected by this final action, you should carefully examine the regulations in 40 CFR part 80, subpart D—Reformulated Gasoline. If you have questions regarding the applicability of this action to a particular entity, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2018–0114. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *www.regulations.gov.*

II. Background

A. What is the RFG program?

The 1990 Clean Air Act (CAA) amendments established specific requirements for the RFG program to reduce ozone levels in certain areas in the country experiencing ground-level ozone or smog problems by reducing vehicle emissions of compounds that form ozone, specifically volatile organic compounds (VOCs). The 1990 CAA amendments, specifically CAA section 211(k)(5), directed EPA to issue regulations that specify how gasoline can be ''reformulated'' so as to result in significant reductions in vehicle emissions of ozone-forming and toxic air pollutants relative to the 1990 baseline fuel, and to require the use of such reformulated gasoline in certain ''covered areas.'' The CAA defined certain nonattainment areas as ''covered areas'' which are required to use reformulated gasoline (RFG) and provided other areas with an ability to ''opt-in'' to the RFG program. CAA section 211(k)(6) provides an opportunity for an area classified as a Marginal, Moderate, Serious, or Severe ozone nonattainment area, or which is in the ozone transport region established by CAA section 184(a), to ''opt-in'' to the RFG program upon application by the governor of the state (or his authorized representative) and subsequent action by EPA.

As in other RFG covered areas, RFG opt-in areas are subject to the prohibition in CAA section 211(k)(5) on the sale or dispensing by any person of conventional (non-RFG) gasoline to ultimate consumers in the covered area. The prohibition also includes the sale or dispensing by any refiner, blender, importer, or marketer of conventional gasoline for resale in any covered areas, without segregating the conventional gasoline from RFG and clearly marking conventional gasoline as not for sale to ultimate consumers in a covered area. EPA first published regulations for the RFG program on February 16, 1994 (59 FR 7716).

Kentucky voluntarily opted Boone, Campbell, and Kenton Counties into the RFG program in 1995. Kentucky also opted its portion of the Louisville ozone area (Jefferson County and parts of Bullitt and Oldham Counties) into the RFG program; however, today's action does not affect the use of RFG in the Louisville ozone area. A current listing of the RFG covered areas and a summary of RFG requirements can be found on EPA's website at: *https://www.epa.gov/gasoline-standards/reformulated-gasoline.*

B. Opt-Out Procedures

The RFG regulations (40 CFR 80.72—Procedures for opting out of the covered areas) provide the process and criteria for a reasonable transition out of the RFG program if a state decides to opt-out.[2] These opt-out regulations provide that the governor of the state must submit a petition to the Administrator requesting to opt-out of the RFG program. The petition must include specific information on how, if at all, the state has relied on RFG in a proposed or approved state implementation plan (SIP) or plan revision and, if RFG is relied upon, how the SIP will be revised to reflect the state's opt-out from RFG. The opt-out regulations also provide that EPA will notify the state in writing of the Agency's action on the petition and the date the opt-out becomes effective (*i.e.,* the date RFG is no longer required in the affected area) when the petition is approved. The opt-out regulations also provide that EPA will publish a **Federal Register** notice announcing the approval of any opt-out petition and the effective date of such opt-out. If a SIP revision is required, the effective date of EPA's approval of the opt-out can be no less than 90 days from the effective date of EPA's approval of the revision to the SIP that removes RFG as a control measure. *See* 40 CFR 80.72(c)(7).

EPA determined in the RFG ''Opt-out Rule'' that it would not be necessary to conduct a separate rulemaking for each future opt-out request. (*See* 61 FR 35673 at 35675 (July 8, 1996)). EPA established a petition process to address, on a case-by-case basis, future individual state requests to opt-out of the RFG program. The opt-out regulations establish clear and objective criteria for EPA to apply. These regulatory criteria address when a state's petition is complete and the appropriate transition time for opting out. As EPA stated in the preamble to the Opt-out Rule, this application of regulatory criteria on a case-by-case basis to individual opt-out requests does not require notice-and-comment rulemaking, either under CAA section 307(d) or the Administrative Procedure Act. Thus, in this action, EPA is applying the criteria and following the procedures specified in its opt-out regulations to approve Kentucky's petition.

C. Opt-out of RFG for the Northern Kentucky Portion of the Cincinnati-Hamilton OH-KY-IN Maintenance Area

On April 18, 2017, Kentucky submitted a petition to the EPA Administrator requesting to opt-out from the RFG program for Boone, Campbell and Kenton counties (the Northern Kentucky Area).[3] In order to fulfill the requirements of the RFG opt-out regulations, on September 13, 2018, Kentucky submitted a revision to its maintenance plan for the Northern

[1] North American Industry Classification System.

[2] Pursuant to authority under CAA sections 211(c) and (k) and 301(a), EPA promulgated regulations at 40 CFR 80.72 to provide criteria and general procedures for states to opt-out of the RFG program where the state had previously voluntarily opted into the program. The regulations were initially adopted on July 8, 1996 (61 FR 35673) (the RFG ''Opt-out Rule''); and were revised on October 20, 1997 (62 FR 54552).

[3] The Secretary of Kentucky's Energy and Environment Cabinet submitted the opt-out petition on behalf of the Commonwealth of Kentucky. A copy of the opt-out petition is included in the docket.

Kentucky Area to remove the emissions reductions associated with the use of RFG in this area and to demonstrate that the RFG opt-out would not interfere with the area's ability to attain or maintain the 2008 ozone NAAQS and any other NAAQS as required by CAA section 110(l). (*See* 40 CFR 80.72(b)). EPA published a proposed approval of the SIP revision on February 14, 2018 (83 FR 6496) and a final approval of the SIP revision on April 2, 2018 (83 FR 13872). The final approval of the maintenance plan revision was effective upon publication, April 2, 2018. The RFG opt-out regulations provide that the opt-out effective date shall be no less than 90 days from the EPA SIP approval effective date. (*See* 40 CFR 80.72(c)(7)). EPA is unaware of any reason that the effective date should be postponed, and therefore, is establishing an opt-out effective date of July 1, 2018 for the Northern Kentucky Area.

As provided by the RFG Opt-out Rule and the opt-out regulations, EPA will publish a final rule at a later date to remove the three counties in the Northern Kentucky Area from the list of RFG covered areas in 40 CFR 80.70 after the effective date of the opt-out. EPA believes that it is prudent to complete this ministerial exercise to revise the list of covered areas in the Code of Federal Regulations after the effective date of the opt-out.

III. Action

EPA is approving Kentucky's petition because it contained the information required by 40 CFR 80.72, including that Kentucky revised the approved maintenance plan for the 2008 ozone NAAQS for the Northern Kentucky Area to remove the emissions reductions associated with RFG. EPA is also determining the opt-out effective date by applying the criteria in 40 CFR 80.72(c)(7). As discussed in Section II.A. of this document, the opt-out regulations require that if a state included RFG as a control measure in an approved SIP, the state must revise the SIP, reflecting the removal of RFG as a control measure before an opt-out can be effective and the opt-out cannot be effective less than 90 days after the effective date of the approval of the SIP revision. EPA published a final approval of Kentucky's maintenance plan revision and noninterference demonstration on April 2, 2018 (83 FR 13872). The final approval was effective upon publication.

In summary, EPA is today notifying the public that it has applied its regulatory criteria to approve the petition by Kentucky to opt-out of the RFG program for the Northern Kentucky Area of the Cincinnati-Hamilton, OH-KY-IN ozone maintenance area and is thereby removing the prohibition on the sale of conventional gasoline in that area as of July 1, 2018. (*See* 40 CFR 80.72). This opt-out effective date applies to retailers, wholesale purchasers, consumers, refiners, importers, and distributors.

Dated: May 9, 2018.

E. Scott Pruitt,

Administrator.

[FR Doc. 2018–10456 Filed 5–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0032; FRL–9976–62]

Tebuconazole; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of tebuconazole in or on ginseng, fresh at 0.15 parts per million (ppm) and ginseng, dried at 0.40 ppm. Bayer CropScience LP, requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective May 16, 2018. Objections and requests for hearings must be received on or before July 16, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0032, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

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

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

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2017–0032 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 16, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

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

by docket ID number EPA–HQ–OPP–2017–0032, by one of the following methods:

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

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of April 10, 2017 (82 FR 17175) (FRL–9959–61), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 6E8534) by Bayer CropScience LP, 2 T.W. Alexander Drive, P.O. Box 12014, Research Triangle Park, NC 27709. The petition requested that 40 CFR part 180 be amended by establishing tolerances for residues of tebuconazole, α-[2-(4-Chlorophenyl)ethyl]-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, in or on ginseng, fresh at 0.15 ppm and ginseng, dried/red at 0.4 ppm. This document referenced a summary of the petition prepared by Bayer CropScience LP, the registrant, which is available in the docket, *http://www.regulations.gov.* No comments were received in response to the notice of filing.

III. Aggregate Risk Assessment and Determination of Safety

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

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

A. Toxicological Profile

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

The toxicological profile remains unchanged from the discussion contained in the final rule published in the **Federal Register** on November 15, 2013 (78 FR 68741) (FRL–9392–1), which is hereby incorporated into this document.

Specific information on the studies received and the nature of the adverse effects caused by tebuconazole as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document *Human Health Aggregate Risk Assessment for Establishment of a Permanent Tolerance Without U.S. Registration for Residues in/on Ginseng* at pages 24–26 in docket ID number EPA–HQ–OPP–2017–0032.

B. Toxicological Points of Departure/Levels of Concern

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

A summary of the toxicological endpoints for tebuconazole used for human risk assessment can be found in the preamble to the final rule published in the **Federal Register** on November 15, 2013.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to tebuconazole, EPA considered exposure under the petitioned-for tolerances as well as all existing tebuconazole tolerances in 40 CFR 180.474. EPA assessed dietary exposures from tebuconazole in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for tebuconazole. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). As to residue levels in food, a somewhat refined acute probalistic dietary exposure assessment was conducted for all existing and proposed food uses of tebuconazole. For the acute assessment, anticipated residues for grapes, grape juice, and peaches were derived using the latest USDA Pesticide Data Program (PDP) monitoring data. Anticipated residues for all other registered and proposed food commodities were based on field trial data. Anticipated residues for all current uses were further refined

using percent crop treated (%CT) data where available. Percentage of imported orange juice and oranges were also provided. Default DEEM (ver. 7.81) and empirical processing factors were assumed.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA 2003–2008 (NHANES/WWEIA). As to residue levels in food, EPA used field trial data, USDA PDP data, assumed PCT data levels and used empirical DEEM (ver. 7.81) default processing factors as described in Unit III.C.iv.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that a nonlinear RfD approach is appropriate for assessing cancer risk to tebuconazole. The chronic risk assessment or RfD approach is considered to be protective of any cancer effects; therefore, a separate cancer assessment was not conducted.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

Section 408(b)(2)(F) of FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if:

- Condition a: The data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain the pesticide residue.
- Condition b: The exposure estimate does not underestimate exposure for any significant subpopulation group.
- Condition c: Data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area.

In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by FFDCA section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

For the acute assessment, the Agency estimated the PCT for existing uses as follows: Almonds 15%; apples 2.5%; apricots 20%; asparagus 30%; barley 2.5%; beans green 2.5%; cantaloupes 10%; cherries 45%; corn 2.5%; cotton 2.5%; cucumbers 2.5%; dry beans/peas 5%; garlic 95%; grapes 40%; nectarines 30%; oats 2.5%; onions 5%; peaches 25%; peanuts 65%; pears 5%; pecans 25%; plums/prunes 5%; soybeans 2.5%; squash 5%; sweet corn 5%; and wheat 25%.

For the chronic assessment, the Agency estimated the PCT for existing uses as follows: Almonds 5%; apples 2.5%; apricots 10%; asparagus 5%; barley 2.5%; beans green 1%; cantaloupes 2.5%; cherries 25%; corn 1%; cotton 1%; cucumbers 1%; dry beans/peas 2.5%; garlic 65%; grapes 25%; nectarines 20%; oats 2.5%; onions 5%; peaches 10%; peanuts 45%; pears 5%; pecans 10%; pistachios 5%; plums/prunes 2.5%; pumpkins 2.5%; soybeans 1%; squash 2.5%; sweet corn 2.5%; walnuts 2.5%; watermelons 15%; and wheat 5%.

The following estimated percent import estimates for the import oranges were used: *Acute:* Orange 16%; and orange juice 58%; *Chronic:* orange 12%; orange juice 46%. For all other crops not listed above, EPA assumed that 100% of the crop was treated.

In most cases, EPA uses available data from United States Department of Agriculture/National Agricultural Statistics Service (USDA/NASS), proprietary market surveys, and California Department of Pesticide Regulation (DPR) Pesticide Use Reporting (PUR) for the chemical/crop combination for the most recent 10 years. EPA uses an average PCT for chronic dietary risk analysis and a maximum PCT for acute dietary risk analysis. The average PCT figure for each existing use is derived by combining available public and private market survey data for that use, averaging across all observations, and rounding to the nearest 5%, except for those situations in which the average PCT is less than 2.5% or 1%. In those cases, EPA uses 2.5% or 1%, respectively, as the average PCT value. The maximum PCT figure is the highest observed maximum value reported within the recent 10 years of available public and private market survey data for the existing use and rounded up to the nearest multiple of 5%, except in those situations in which the maximum PCT is less than 2.5%, in which case, the Agency uses 2.5% as the maximum PCT.

The Agency believes that the three conditions discussed in Unit III.C.1.iv have been met. With respect to Condition a, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions b and c, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available reliable information on the regional consumption of food to which tebuconazole may be applied in a particular area.

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

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Screening Concentration in Ground Water (SCI–GROW) models the estimated drinking water concentrations (EDWCs) of tebuconazole for acute exposures are estimated to be 87.7 parts per billion (ppb) for surface water and 1.56 ppb for ground water and for chronic exposures are estimated to be 68.8 ppb for surface water and 1.56 ppb for ground water.

Modeled estimates of drinking water concentrations were previously entered into the dietary exposure model. For acute dietary risk assessment, a distribution of 30-year daily surface water concentration was estimated for the EDWCs of tebuconazole. For chronic dietary risk assessment, the water concentration of value 68.8 ppb was previously used to assess the

contribution to drinking water. Because the use of tebuconazole on ginseng is not associated with a U.S. registration, there is no impact on drinking water residues. As a result, the Agency is relying on the drinking water residues used in the dietary risk assessment previously provided, ''Drinking water and ecological risk for new use of tebuconazole/fluoxastrobin combination for turf and ornamental use'', which can be found at *http://regulations.gov,* under docket ID number EPA–HQ–OPP–2013–0653–0007.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tebuconazole is currently registered for the following uses that could result in residential exposures: Turf, flower gardens, trees, ornamentals, and pressure-treated wood.

EPA assessed residential exposure using the following assumptions: For residential handlers, exposure is expected to be short-term. Intermediate-term exposures are not likely because of the intermittent nature of applications by homeowners. For post-application exposures, the Agency assessed residential dermal and incidental oral post-application exposure for adults and children golfing, working in gardens, and performing physical activities on pressure-treated wood after application of tebuconazole may receive exposure to tebuconazole residues. Post-application exposure is expected to be short-term in duration. For assessment of both handler and post-application exposures, dermal and inhalation exposures were combined since the same endpoint and point of departure (POD) is used for both routes of exposure.

Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/standard-operating-procedures-residential-pesticide.*

Because no new residential uses are being requested at this time, an updated residential exposure assessment would not normally be required. Each of the existing residential use patterns had been previously assessed and the resulting exposures and risk estimates did not exceed the agency's LOC. Since those assessments were conducted, however, a turf transferrable residue (TTR) study required by the Agency in 2013 was submitted to support a reevaluation of the aggregate exposures from the registered use on golf course turf. In addition, the agency updated the residential standard operating procedures and body weights to be used in all human health assessments. Therefore, the existing residential use patterns were reassessed using the updated procedures and data, since the residential exposures can impact the aggregate assessment for tebuconazole. The TTR study is reviewed in a separate HED memorandum available in the docket EPA–HQ–OPP–2017–0032.

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

Tebuconazole is a member of the conazole class of fungicides containing the 1,2,4-triazole moiety. Although conazoles act similarly in plants (fungi) by inhibiting ergosterol biosynthesis, there is not necessarily a relationship between their pesticidal activity and their mechanism of toxicity in mammals. Structural similarities do not constitute a common mechanism of toxicity. Evidence is needed to establish that the chemicals operate by the same, or essentially the same, sequence of major biochemical events. In conazoles, however, a variable pattern of toxicological responses is found; some are hepatotoxic and hepatocarcinogenic in mice. Some induce thyroid tumors in rats. Some induce developmental, reproductive, and neurological effects in rodents. Furthermore, the conazoles produce a diverse range of biochemical events including altered cholesterol levels, stress responses, and altered DNA methylation. It is not clearly understood whether these biochemical events are directly connected to their toxicological outcomes. Thus, there is currently no conclusive data to indicate that conazoles share common mechanisms of toxicity, and EPA is not following a cumulative risk approach based on a common mechanism of toxicity for the conazoles. For information regarding EPA's procedures for cumulating effects from substances found to have a common mechanism of toxicity, see EPA's website at *http://www.epa.gov/pesticide-science-and-assessing-pesticide-risks/cumulative-assessment-risk-pesticides.*

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to tebuconazole and any other substances. Although the conazoles produce 1,2,4 triazole and its acid-conjugated metabolites (triazolylalanine and triazolylacetic acid), 1,2,4 triazole and its acid-conjugated metabolites do not contribute to the toxicity of the parent conazoles. The Agency has assessed the aggregate risks from the 1,2,4 triazole and its acid-conjugated metabolites (triazolylalanine and triazolylacetic acid) separately. Tebuconazole does not appear to produce any other toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that tebuconazole has a common mechanism of toxicity with other substances.

D. Safety Factor for Infants and Children

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

2. *Prenatal and postnatal sensitivity.* The toxicity database for tebuconazole includes prenatal developmental toxicity studies in three species (mouse, rat, and rabbit), a reproductive toxicity study in rats, and a developmental neurotoxicity study in rats. The data from prenatal developmental toxicity studies in mice and a developmental neurotoxicity study in rats indicated an increased quantitative and qualitative susceptibility following *in utero* exposure to tebuconazole. The NOAELs/LOAELs for developmental toxicity in these studies were found at dose levels less than those that induce maternal toxicity or in the presence of slight maternal toxicity. There was no indication of increased quantitative susceptibility in the rat and rabbit developmental toxicity studies, the NOAELs for developmental toxicity were comparable to or higher than the NOAELs for maternal toxicity. In all three species, however, there was indication of increased qualitative susceptibility. For most studies, minimal maternal toxicity was seen at the LOAEL (consisting of increases in

hematological findings in mice, increased liver weights in rabbits and rats, and decreased body weight gain/food consumption in rats) and did not increase substantially in severity at higher doses. However, there was more concern for the developmental effects at each LOAEL, which included increases in runts, increased fetal loss, and malformations in mice; increased skeletal variations in rats; and increased fetal loss and frank malformations in rabbits. Additionally, more severe developmental effects (including frank malformations) were seen at higher doses in mice, rats and rabbits. In the developmental neurotoxicity study, maternal toxicity was seen only at the high dose (decreased body weights, body weight gains, and food consumption, prolonged gestation and dystocia as well as decreased offspring survival).

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

i. The toxicity database for tebuconazole is complete.

ii. Tebuconazole demonstrated neurotoxicity in the acute neurotoxicity study in rats; the lowest observable adverse effect level (LOAEL) of 100 mg/kg/day was based on increased motor activity in male and female rats and decreased footsplay in female rats. Although the subchronic neurotoxicity study was unacceptable since there was inadequate dosing, a new subchronic neurotoxicity study is not needed to evaluate levels at which subchronic neurotoxicity might occur; neurotoxicity was seen in other studies in the database at considerably lower doses than those tested in the subchronic neurotoxicity study. Malformations indicative of nervous system development disruption were seen in developmental toxicity studies in mice, rats, and rabbits. Neurotoxicity was also seen in the rat developmental neurotoxicity study as decreases in body weights, decreases in absolute brain weights, changes in brain morphometric parameters, and decreases in motor activity in offspring at the LOAEL of 8.8 mg/kg/day; a no observable adverse effect level (NOAEL) could not be established. The LOAEL (8.8 mg/kg/day) was employed as the point of departure (POD) for assessing risk for all exposure scenarios, and an FQPA SF of 3X has been retained as an uncertainty factor for use of a LOAEL to extrapolate a NOAEL (UFL). To determine whether the UFL is protective of any potential neurotoxicity, a Benchmark Dose (BMD) analysis of the datasets relevant to the adverse offspring effects (decreased body weight and brain weight) seen at the LOAEL in the developmental neurotoxicity (DNT) study was conducted. All of the BMDLs (benchmark dose lower limit) modeled successfully on statistically significant effects were 1–2X lower than the LOAEL. Therefore, an extrapolated NOAEL is not likely to be 10X lower than the LOAEL and that use of an UFL of 3X would not underestimate risk. Using an FQPA SF of 3X in risk assessment results in a NOAEL of 2.9 mg/kg/day (8.8 mg/kg/day ÷ 3X = 2.9 mg/kg/day), which is further supported by other studies in the tebuconazole toxicity database, with the lowest NOAELs being 3 and 2.9 mg/kg/day, from a developmental toxicity study in mice and a chronic toxicity study in dogs, respectively (respective LOAELs 10 and 4.5 mg/kg/day).

iii. There were increases in qualitative susceptibility in the prenatal developmental studies in rats, mice, and rabbits and in quantitative susceptibility in mice and developmental neurotoxicity in rats. However, the toxicity endpoint observed in developmental neurotoxicity study in rats was employed to establish the point of departure (POD) for risk assessment for all exposure scenarios. This toxicity endpoint was the most sensitive one, and the resulting POD was protective of all adverse effects found in the tebuconazole toxicity database. Therefore, the degree of concern for residual uncertainties for prenatal and/or postnatal toxicity was low.

iv. There are no residual uncertainties identified in the exposure databases. EPA utilized a tiered approach in estimating exposure to tebuconazole. While some refinements were incorporated into dietary and residential exposure calculations, EPA is confident that the aggregate risk from exposure to tebuconazole in food, water and residential pathways will not be underestimated. The acute and chronic dietary exposure assessments incorporated somewhat refined estimates of residues in food commodities from reliable field trial data reflecting maximum use conditions, recent monitoring data from USDA's Pesticide Data Program (PDP), and relevant market survey data on the percentage of crops treated. Estimated concentrations of tebuconazole in drinking water were incorporated into the chronic dietary analysis as the upper bound point estimate and into the probabilistic acute dietary analysis as a distribution. For the residential exposure pathways (ornamentals, golf course turf, and treated wood products), potential exposure resulting from tebuconazole outdoor uses in the residential setting was assessed using screening-level inputs that assumes an adult or child will come in contact with turf and other surfaces immediately after application.

E. Aggregate Risks and Determination of Safety

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

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to tebuconazole will occupy 77% of the aPAD for all infants (< 1 year old), the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to tebuconazole from food and water will utilize 22% of the cPAD for all infants (< 1 year old) the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of tebuconazole is not expected.

3. *Short-term risk and Intermediate-term risk.* Short-term and intermediate-term risk aggregate exposure takes into account short-term residential exposure and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Tebuconazole is currently registered for uses that could result in short-term residential exposure that could co-occur with background dietary exposure over the short-term (1–30 days), whereas co-occurring intermediate exposures (1–6 months) are less likely. However, since the POD employed for both durations are the same, the aggregate assessments address both exposure durations. Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that residential exposures result in aggregate MOEs of 580 for adults, 600 for youths 11 to <16 years old, and children 6 to <11 years

500 for the activity of golfing and 330 for children (1–2 years old) engaging in activities on pressure treated wood surfaces. Because EPA's level of concern (LOC) for tebuconazole is a MOE of 300 or below, these MOEs are not of concern. Therefore, aggregate risk estimates for all examined population subgroups were not of concern to the Agency.

4. *Aggregate cancer risk for U.S. population.* Based on the Agency's determination that the chronic risk assessment will be protective of any cancer effects, a separate quantitative cancer risk assessment was not conducted. Because there is no chronic risk of concern from aggregate exposure to tebuconazole, the Agency concludes that aggregate exposure to tebuconazole will not result in cancer risks of concern.

5. *Aggregate Assessment for Free Triazole & its Conjugates.* The conazole class of compounds, which includes tebuconazole, can form the common metabolite 1,2,4-triazole and two triazole conjugates (triazolylalanine and triazolylacetic acid). To support existing tolerances and to establish new tolerances for triazole-containing pesticides, including tebucaonazole, EPA conducted a human health risk assessment for exposure to 1,2,4-triazole, triazolylalanine, and triazolylacetic acid resulting from the use of all current and pending uses of any triazole-containing fungicide. The risk assessment is a highly conservative, screening-level evaluation in terms of hazards associated with common metabolites (*e.g.,* use of a maximum combination of uncertainty factors) and potential dietary and non-dietary exposures (*i.e.,* high end estimates of both dietary and non-dietary exposures). The Agency retained a 3X for the LOAEL to NOAEL safety factor when the reproduction study was used. In addition, the Agency retained a 10X for the lack of studies including a developmental neurotoxicity (DNT) study. The assessment includes evaluations of risks for various subgroups, including those comprised of infants and children. The Agency's complete risk assessment is found in the propiconazole reregistration docket at *http://www.regulations.gov,* Docket Identification (ID) Number EPA–HQ–OPP–2005–0497. The Agency's latest updated aggregate risk assessment for the triazole-containing metabolites was finalized on July 18, 2017 and includes the proposed new uses of tebuconazole. That assessment concluded that aggregate exposure to the triazole metabolites does not exceed the Agency's level of concern.

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

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Gas Chromatography/Nitrogen Phosphorus Detector (GC/NPD) is available to enforce the tolerance expression.

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

B. International Residue Limits

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

The Codex has established MRLs for tebuconazole in or on ginseng and ginseng, dried at 0.15 ppm and 0.40 ppm, respectively. These MRLs are the same as the tolerances established for tebuconazole in the United States.

C. Revisions to Petitioned-For Tolerances

For dried ginseng, the Agency is revising the commodity definition for the requested tolerance to reflect the correct commodity vocabulary currently used by the Agency. Specifically, *ginseng dried/red* was changed to *ginseng, dried.* Additionally, the Agency is revising the significant figures for the tolerance level based on current policy.

V. Conclusion

Therefore, tolerances are established for residues of tebuconazole, α-[2-(4-Chlorophenyl)ethyl]-α-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol, in or on ginseng, dried at 0.40 ppm and ginseng, fresh at 0.15 ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001); Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997); or Executive Order 13771, entitled ''Reducing Regulations and Controlling Regulatory Costs'' (82 FR 9339, February 3, 2017). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10,

1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 30, 2018.

Daniel Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Program.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.474, add alphabetically the entries ''Ginseng, dried'' and ''Ginseng, fresh'' to the table in paragraph (a)(1) to read as follows:

§ 180.474 Tebuconazole; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * *	* *
Ginseng, dried [1]	0.40
Ginseng, fresh [1]	0.15
* * *	* *

[1] There are no U.S. registrations.

* * * * *

[FR Doc. 2018–10345 Filed 5–15–18; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160426363–7275–02]

RIN 0648–XF920

Coastal Migratory Pelagic Resources of the Gulf of Mexico and Atlantic Region; 2017–2018 Commercial Closure for King Mackerel in the Gulf of Mexico Northern Zone

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements an accountability measure (AM) for commercial king mackerel in the northern zone of the Gulf of Mexico (Gulf) exclusive economic zone (EEZ) through this temporary rule. NMFS has determined that the commercial quota for king mackerel in the northern zone of the Gulf EEZ will be reached by May 15, 2018. Therefore, NMFS closes the northern zone of the Gulf EEZ to commercial king mackerel fishing on May 15, 2018. This closure is necessary to protect the Gulf king mackerel resource.

DATES: The closure is effective at 12:01 a.m., local time, May 15, 2018, until 12:01 a.m., local time, on October 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, email: *kelli.odonnell@noaa.gov.*

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

On April 11, 2017, NMFS published a final rule to implement Amendment 26 to the FMP in the **Federal Register** (82 FR 17387). That final rule adjusted the management boundaries, zones, and annual catch limits for Gulf migratory group king mackerel (Gulf king mackerel). The commercial quota for the Gulf king mackerel in the Gulf northern zone is 511,200 lb (231,876 kg) for the current fishing year, October 1, 2017, through September 30, 2018 (50 CFR 622.384(b)(1)(ii)).

The Gulf king mackerel northern zone is located in the EEZ between a line at 87°31.6′ W long., which is a line extending due south of the state boundary of Alabama and Florida, and a line at 26°19.48′ N lat., which is a line extending west from the boundary of Lee and Collier Counties in southwest Florida.

Regulations at 50 CFR 622.388(a)(1)(i) require NMFS to close the commercial sector for Gulf king mackerel in the northern zone when the commercial quota is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the commercial quota of 511,200 lb (231,876 kg) for Gulf king mackerel in the northern zone will be reached by May 15, 2018. Accordingly, the northern zone is closed to commercial fishing for Gulf king mackerel effective from 12:01 a.m., local time, on May 15, 2018, through September 30, 2018, the end of the current fishing year.

During the closure, a person on board a vessel that has been issued a valid Federal commercial or charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain the king mackerel in the northern zone under the recreational bag and possession limits specified in 50 CFR 622.382(a)(1)(ii) and (a)(2), as long as the recreational sector for Gulf king mackerel in the northern zone is open (50 CFR 622.384(e)(1)).

Also during the closure, king mackerel from the closed zone, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to king mackerel from the closed zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor (50 CFR 622.384(e)(2)).

Classification

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

This action is taken under 50 CFR 622.384(e) and 622.388(a)(1)(i), and is exempt from review under Executive Order 12866.

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

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds good cause to waive the requirements 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 procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule implementing the commercial quota and the associated AM has already been subject to notice and public comment, and all that remains is to notify the public of the closure. Additionally, allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to implement immediately this action to protect the king mackerel stock, because the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could potentially result in a harvest well in excess of the established commercial quota.

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

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

Dated: May 11, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–10434 Filed 5–11–18; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XG237

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; closure of Angling category Gulf of Mexico trophy fishery.

SUMMARY: NMFS closes the Gulf of Mexico Angling category fishery for large medium and giant (''trophy'' (*i.e.,* measuring 73 inches curved fork length or greater)) Atlantic bluefin tuna (BFT). This action is being taken to prevent overharvest of the Angling category Gulf of Mexico trophy BFT subquota.

DATES: Effective 11:30 p.m., local time, May 13, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006) and amendments.

NMFS is required, under § 635.28(a)(1), to file a closure notice with the Office of the Federal Register for publication when a BFT quota is reached or is projected to be reached. On and after the effective date and time of such notification, for the remainder of the fishing year or for a specified period as indicated in the notification, retaining, possessing, or landing BFT under that quota category is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

Angling Category Large Medium and Giant Gulf of Mexico ''Trophy'' Fishery Closure

The 2018 BFT fishing year, which is managed on a calendar-year basis and subject to an annual calendar-year quota, began January 1, 2018. The Angling category season opened January 1, 2018, and continues through December 31, 2018. The currently codified Angling category quota is 195.2 metric tons (mt), of which 4.5 mt is allocated for the harvest of large medium and giant (trophy) BFT by vessels fishing under the Angling category quota, with 1.5 mt allocated for each of the following areas: North of 39°18′ N lat. (off Great Egg Inlet, NJ); south of 39°18′ N lat. and outside the Gulf of Mexico (the ''southern area''); and in the Gulf of Mexico. Trophy BFT measure 73 inches (185 cm) curved fork length or greater.

Based on reported landings from the NMFS Automated Catch Reporting System, NMFS has determined that the codified Angling category Gulf of Mexico trophy BFT subquota has been reached and exceeded and that a closure of the Gulf of Mexico trophy BFT fishery is warranted. Therefore, retaining, possessing, or landing large medium or giant BFT in the Gulf of Mexico by persons aboard vessels permitted in the HMS Angling category and the HMS Charter/Headboat category (when fishing recreationally) must cease at 11:30 p.m. local time on May 13, 2018. This closure will remain effective through December 31, 2018. This action is intended to prevent further overharvest of the Angling category Gulf of Mexico trophy BFT subquota, and is taken consistent with the regulations at § 635.28(a)(1).

If needed, subsequent Angling category adjustments will be published in the **Federal Register**. Information regarding the Angling category fishery for Atlantic tunas, including daily retention limits for BFT measuring 27 inches (68.5 cm) to less than 73 inches and any further Angling category adjustments, is available at *hmspermits.noaa.gov* or by calling (978) 281–9260. HMS Angling and HMS Charter/Headboat category permit holders may catch and release (or tag and release) BFT of all sizes, subject to the requirements of the catch-and-release and tag-and-release programs at § 635.26. Anglers are also reminded that all BFT that are released must be handled in a manner that will maximize survival, and without removing the fish from the water, consistent with requirements at § 635.21(a)(1). For additional information on safe handling, see the ''Careful Catch and Release'' brochure available at *https://www.fisheries.noaa.gov/resource/outreach-and-education/careful-catch-and-release-brochure*.

HMS Charter/Headboat and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov* or by using the HMS Catch Reporting App.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. The closure of the Gulf of Mexico Angling category trophy fishery is necessary to prevent any further overharvest of the Gulf of Mexico trophy fishery subquota. NMFS provides notification of closures by publishing the notice in the **Federal Register**, emailing individuals who have subscribed to the Atlantic HMS News electronic newsletter, and updating the information posted on the Atlantic Tunas Information Line and on *hmspermits.noaa.gov.*

These fisheries are currently underway and delaying this action would be contrary to the public interest as it could result in excessive trophy BFT landings that may result in future potential quota reductions for the Angling category, depending on the magnitude of a potential Angling category overharvest. NMFS must close the Gulf of Mexico trophy BFT fishery before additional landings of these sizes of BFT occur. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.28(a)(1), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: May 11, 2018.

Jennifer M. Wallace,

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

[FR Doc. 2018–10433 Filed 5–11–18; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 83, No. 95
Wednesday, May 16, 2018

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

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 310

[Docket No. FSIS–2018–0005]

RIN: 0583–AD68

Eliminating Unnecessary Requirements for Hog Carcass Cleaning

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations by removing the provision requiring the cleaning of hog carcasses before any incision is made preceding evisceration. This provision, although focusing on the presentation of carcass dressing defects, impedes the adoption of more efficient, effective procedures under other regulations to ensure that carcasses and parts are free of contamination. Also, the provision is no longer necessary because other regulations require carcass cleaning, the maintenance of sanitary conditions, and the prevention of hazards reasonably likely to occur in the slaughter process.

DATES: Comments must be received by July 16, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on FSIS–2018–0005. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0005. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202)720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Roberta Wagner, Assistant Administrator, Office of Policy and Program Development, FSIS; Telephone: (202) 205–0495.

SUPPLEMENTARY INFORMATION:

Background

Under the Federal Meat Inspection Act (21 U.S.C. 601–695), FSIS carries out an inspection program to ensure that carcasses, parts, and products of amenable species of livestock are wholesome, not adulterated, and properly marked, labeled and packaged. Among other provisions of the Act is a requirement for post-mortem inspection of livestock carcasses, including swine carcasses (21 U.S.C. 604). This inspection must be completed before the carcasses or the meat or meat food products derived from them are moved to further processing (21 U.S.C. 605) and preparation for commerce (also under inspection) (21 U.S.C. 606(a)).

Under the Act, the Agency may prescribe rules and regulations of sanitation under which establishments must be maintained (21 U.S.C. 608). More generally, the Agency may issue rules and regulations necessary for the efficient execution of the Act's provisions (21 U.S.C. 621).

Accordingly, FSIS and its predecessors have issued regulations governing inspection. The regulations include post-mortem inspection requirements, criteria for determining whether or not meat or meat food products are adulterated, and requirements for inspected establishments to develop and maintain Hazard Analysis and Critical Control Point (HACCP) plans and Sanitation Standard Operating Procedures (Sanitation SOPs).

Among the post-mortem inspection regulations is one titled ''Cleaning of hog carcasses before incising'' (9 CFR 310.11). This regulation states, ''All hair, scurf, and dirt, including all hoofs and claws, shall be removed from hog carcasses and the carcasses thoroughly washed and cleaned, before any incision is made for inspection or evisceration.'' The carcass cleaning that the regulation is referring to typically begins in an official slaughter establishment after stunning, bleeding, and scalding, and continues after gambrelling [1] and singeing, along with trimming of jowls, lips, and eyelids, but before dropping of the head. This regulation has helped to ensure that carcasses are clean when presented for post-mortem inspection.

Another post-mortem-inspection regulation, 9 CFR 310.18, on ''Contamination of carcasses, organs, or other parts,'' addresses the prevention and removal of contamination from carcasses (before or after incision), organs, and other parts. Under this regulation, any contamination remaining post-incision or post-evisceration is removed.

Regulations on Sanitation SOPs (9 CFR 304.3, 416.12–17) require establishments to have written procedures to ensure sanitary operating conditions that will prevent contamination and adulteration of products. The HACCP regulations (9 CFR 304.3, and 417, particularly 9 CFR 417.2, and 417.4) require establishments to have HACCP plans to prevent or reduce to acceptable levels any hazards reasonably likely to occur. These include any contamination hazards that are not already minimized through the implementation of Sanitation SOPs or other prerequisite programs. FSIS and members of the regulated industry have found that the regulation on cleaning hog carcasses before incising, 9 CFR 310.11, may impede the application of alternative, more efficient, procedures for removing hair, scurf, and dirt *after* the first incision preceding the dropping of the head and evisceration.

Because the current regulation is prescriptive and requires dehairing

[1] Suspending the carcass by the legs from a metal frame or hanger—a gambrel.

before evisceration, the establishment has limited flexibility. Removing the regulation will enable an establishment to remove hair, scurf, nails, and hooves at other points in the process and to do so in a way that may prove to be more efficient. For example, removing hair from the snout when the snout is on a table, beyond the point where the first incision is made, and the snout is also not moving on the line is more efficient than trying to remove the hair on a moving carcass with the head still attached.

These more efficient procedures also ensure that carcasses will be free of contamination when moved within an establishment to, or shipped in commerce for, further processing. The alternative procedures can be incorporated in a prerequisite program aimed at preventing contamination. When executed and documented, the program can support an establishment's hazard analysis (as per 9 CFR 417.5(a)(1)) and HACCP plan. At times, the Agency has, under an exemption regulation, at 9 CFR 303.1(h), granted waivers from the requirements of 9 CFR 310.11 to permit the use of the alternative procedures.

For example, carcass defects and blemishes too small to be detected during slaughter can be removed during off-line inspection or during further processing. So, some establishments are using alternative procedures for removing, after carcass dressing, hairs that are not readily visible. Such defects may be regarded as finished carcass defects and not as contamination or sanitary dressing defects. Singed eyelashes remaining on the carcass or isolated, individual, hairs on the head or face of the ham may be found after the first incision. Such defects may be removed effectively when pulling the snout and when ''facing'' (trimming the excess fat along the inside surfaces of) hams in the cutting room, where carcasses are broken down in a sanitary manner into standard wholesale or retail cuts. Remaining hoofs and claws (*i.e.,* nails) can be removed after the first incision or later in processing when feet are discarded or not saved for food in the cutting room. FSIS has found the performance of establishments using the alternative procedures to be satisfactory.

Establishments using the alternatives are listed on the FSIS website at: *https://www.fsis.usda.gov/wps/wcm/connect/188bf583-45c9-4837-9205-37e0eb1ba243/Waiver_Table.pdf?MOD=AJPERES*

By relying on the authority of 9 CFR 310.18 and the Sanitation SOP and HACCP regulations, establishments have the flexibility to implement these or other procedures to remove any defects during the stages of slaughter and further processing that follow evisceration. They can make their operations more efficient and effective without compromising food safety. Therefore, these other regulations, and establishment compliance therewith, make 9 CFR 310.11 unnecessary.

FSIS is therefore proposing to remove 9 CFR 310.11 from the regulations.

Modernization of Swine Slaughter Inspection

On February 1, 2018, FSIS proposed a new regulation to modernize swine inspection (83 FR 4780). Among other things, in this rule, FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent the contamination of carcasses and parts by enteric pathogens, fecal material, ingesta, and milk throughout the entire slaughter and dressing operation. These procedures must include sampling and analysis for microbial organisms to monitor process control for enteric pathogens, as well as written procedures to prevent visible fecal material, ingesta, and milk contamination. In addition, FSIS is proposing to require that all official swine slaughter establishments develop, implement, and maintain in their HACCP systems written procedures to prevent contamination of the pre-operational environment by enteric pathogens. Therefore, in the modernization proposed rule, FSIS is proposing additional requirements that, if finalized, will further prevent contamination of swine carcasses. If finalized, this rule would provide more support for eliminating section 310.11, as is proposed above.

Executive Orders 12866 and 13563, and the Regulatory Flexibility Act

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 benefits, distributive impacts, and equity). Executive Order (E.O.) 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated as a ''non-significant'' regulatory action under section 3(f) of E.O. 12866. Accordingly, the rule has not been reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Economic Analysis

Expected Cost Savings and Benefits Associated With the Proposed Rule

This proposed rule is expected to reduce swine slaughter labor costs by approximately $11.81 million annually. These savings are due to industry's practice of dedicating labor pre-incision, solely to comply with 310.11. Under the proposed rule, this labor would no longer be needed because the work can be accomplished by existing labor located post-incision. FSIS's labor cost savings estimate assumes that the labor affected by the proposed rule is equivalent to that in the Bureau of Labor Statistics' (BLS's) slaughtering and meat-packing occupational category, for which the industry annual wage is $27,140.[2] The Agency seeks comment on this assumption. Applying a benefits-and-overhead factor of 2 brings this occupation's total annual labor costs per position to $54,280 ($27,140 × 2).

The number of positions affected at each establishment depends on the establishment's size, slaughter volume, number of lines and shifts it operates, and days of operation. Large[3] swine establishments are thought to dedicate from one to three full-time positions per line and per shift to comply with 9 CFR 310.11; while small[4] high-volume[5] establishments dedicate between one and two positions for the same purpose. Small low-volume and very small[6] establishments are thought to dedicate between one quarter-time and one full-time position to compliance with this regulation. The Agency seeks comment on these labor-demand estimates.

According to data from the Agency's electronic Public Health Inspection System (PHIS), 479 very small establishments, 54 small low-volume establishments, 51 small high-volume establishments, and 23[7] large swine

[2] BLS Occupational Employment Statistics (OES) May 2016 National Industry-Specific Occupational Employment and Wage Estimates for North American Industrial Classification (NAICS) code 311600 (Animal Slaughtering and Processing) *https://www.bls.gov/oes/current/naics4_311600.htm*> Last Modified 3/31/2017 Accessed on 1/19/2018.

[3] A large establishment has 500 or more employees.

[4] A small establishment has between 10 and 499 employees.

[5] 9 CFR 310.25(a)(2)(v) defines very low volume swine slaughter establishments as slaughtering 20,000 head annually or fewer. For the purposes of this analysis, FSIS has labeled swine establishments that annually slaughter more than 20,000 head per year as high-volume establishments.

[6] A very small establishment has less than 10 employees or less than $2.5 million in annual sales.

[7] While there are 28 large swine establishments, five are operating under waivers from 9 CFR 310.11 and are not expected to experience a decrease in

Continued

establishments would be affected by this rule. This analysis takes into consideration the fact that some large and small high-volume establishments operate multiple lines and multiple shifts. This analysis assumes that all other establishments operate one line and one shift per day. Data from PHIS also show that, on average, large establishments annually operate 266 days, small high-volume establishments 239 days, small low-volume establishments 95 days, and very small establishments 67 days. The proposed rule is expected to lead to a reduction in industry positions at these establishments; see table 1. Table 2 provides the estimated labor cost savings from the proposed rule, given the expected labor costs, number of positions, and days of operation. The annual cost savings range from $5.27 million to $19.03 million, with a mid-point of $11.81 million.

TABLE 1—ESTIMATED INDUSTRY LABOR REDUCTIONS FROM REMOVING 310.11

Size of est	Number of establishments *	Number of positions reduced		
		Low	Medium	High
Large	23	37	74	111
Small High Volume	51	26	77	102
Small Low Volume	54	14	27	54
Very Small	479	120	240	479
Combined	607	196	417	746

* Public Health Information System (PHIS).

TABLE 2—LABOR WAGE COST (SAVINGS) FROM REMOVING 310.11, 2016

Size of est	Number of establishments *	Total annual labor costs (savings) (M$) **		
		Low	Medium	High
Large	23	($2.06)	($4.11)	($6.17)
Small High Volume	51	(1.27)	(3.82)	(5.09)
Small Low Volume	54	(.27)	(.54)	(1.07)
Very Small	479	(1.68)	(3.35)	(6.7)
Combined	612	(5.27)	(11.81)	(19.03)
Annualized Costs (Savings), Over 10 Years (M$)				
Assuming a 3% Discount Rate		(5.27)	(11.81)	(19.03)
Assuming a 7% Discount Rate		(5.27)	(11.81)	(19.03)

* Public Health Information System (PHIS).
** Wage estimates were sourced from BLS OES May 2016 National Industry-Specific Occupational Employment and Wage Estimates for NAICS code 311600 <*https://www.bls.gov/oes/current/naics4_311600.htm*> Last Modified 3/31/2017. Accessed on 1/19/2018.

Expected Costs Associated With This Action

The proposed rule has no expected costs associated with it.

Expected Effects on Small Entities

The FSIS Acting Administrator has made a preliminary determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The expected labor cost reductions associated with the proposed rule are not likely to be large enough to significantly impact an entity. Further, the proposed rule does not have any cost increases.

Executive Order 13771

Consistent with E.O. 13771 (82 FR 9339, February 3, 2017), FSIS has estimated that this proposed rule would yield cost savings. Therefore, if finalized as proposed, this rule is expected to be an E.O. 13771 deregulatory action.

Paperwork Reduction Act

No new paperwork requirements are associated with this proposed rule.

Executive Order 12988

This proposed rule has been reviewed under E.O. 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings will not be required before parties may file suit in court challenging this rule.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, *et seq.*) by, among other things, promoting the use of the internet and other information technologies and providing increased opportunities for citizen access to Government information and services, and for other purposes.

Additional Public Notification

FSIS will announce this proposal on-line through the FSIS web page located at: *http://www.fsis.usda.gov/regulations_&_policies/Proposed_Rules/index.asp.* FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In

their demand for labor resulting from implementation of this proposed rule.

addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, shall exclude from participation in, deny the benefits of, or subject to discrimination, any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email: *Mail:* U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410, *Fax:* (202) 690–7442, *Email: program.intake@usda.gov*.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

List of Subjects in 9 CFR 310

Animal diseases, Meat inspection.

For the reasons set out in the preamble, FSIS is proposing to amend 9 CFR part 310 as follows:

PART 310—POST-MORTEM INSPECTION

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 310.11 [*Removed and reserved*]

■ 2. Section 310.11 is removed and reserved.

Done, at Washington, DC.

Paul Kiecker

Acting Administrator.

[FR Doc. 2018–10488 Filed 5–15–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–166–FOR; Docket ID: OSM–2017–0008 S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Pennsylvania Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; correction.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement published a document in the **Federal Register** on May 8, 2018, reopening the comment period and announcing a public hearing on an amendment to the Pennsylvania Regulatory Program. The document contained an incorrect date for the public hearing.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Chief, Pittsburgh Field Division, Telephone: (412) 937–2827. Email: *bowens@osmre.gov.*

Correction

In the proposed rule of May 8, 2018, in FR Doc. 2018–09767, on page 20774 in the third column, correct the **DATES** caption to read:

DATES: We will accept written comments until 4 p.m., Eastern Standard Time (EST), June 7, 2018. The public hearing will be held on May 17, 2018, from 5:30 p.m. until 7:30 p.m. EST.

Correction

In the proposed rule of May 8, 2018, in FR Doc. 2018–09767, on page 20775 in the first column, correct the ''Public Hearing'' caption to read:

Public Hearing: The public hearing will be held at the Double Tree by Hilton Pittsburgh-Green Tree, 500 Mansfield Avenue, Pittsburgh, Pennsylvania 15205; phone number: 412–922–8400, on Thursday, May 17, 2018, from 5:30 p.m. to 7:30 p.m. EST. Those wishing to provide oral testimony need to register between 5:00 p.m. and 5:30 p.m.

Dated: May 10, 2018.

Sterling J. Rideout,

Assistant Director, Program Support.

[FR Doc. 2018–10485 Filed 5–15–18; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[SATS No. PA–165–FOR; Docket ID: OSM–2016–0013; S1D1S SS08011000 SX064A000 189S180110; S2D2S SS08011000 SX064A000 18XS501520]

Pennsylvania Abandoned Mine Land Reclamation Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Pennsylvania Abandoned Mine Land Reclamation (AMLR) Plan (hereinafter, the Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Through this proposed amendment, Pennsylvania would modify its AMLR Plan by adding Reclamation Plan Amendment No. 3, to allow the Pennsylvania Department of Environmental Protection (PADEP) to administer a State Emergency Program under Title IV of the Surface Mining Control and Reclamation Act of 1977. The plan covers coordination of emergency reclamation work between the Commonwealth and the OSMRE as well as procedures for implementing the National Environmental Policy Act and other Commonwealth procedures.

This document gives the locations and times where the Pennsylvania AMLR Plan documents and this proposed amendment to that Plan are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., Eastern Standard Time (e.s.t.), June 15, 2018. If requested, we will hold a public hearing about the amendment on June 11, 2018. We will accept

requests to speak at a hearing until 4:00 p.m., e.s.t. on May 31, 2018.

ADDRESSES: You may submit comments, identified by SATS No. PA–165–FOR; Docket ID: OSM–2016–0013 by any of the following methods:

- *Mail/Hand Delivery:* Mr. Ben Owens, Chief, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA, 15220.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: In addition to obtaining copies of documents at *www.regulations.gov,* you may receive one free copy of the amendment by contacting OSMRE's Pittsburgh Field Office (PFO). For access to the docket to review copies of the Pennsylvania program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you may go to the address listed below during normal business hours, Monday through Friday, excluding holidays.

Mr. Ben Owens, Chief, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2827, Email: *bowens@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Ben Owens, Chief, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2827, Email: *bowens@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania AMLR Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Pennsylvania AMLR Program

The AMLR program was established by Title IV of SMCRA in response to concerns over threats to the health and safety of the public and environmental damage caused by coal mining activities conducted before the enactment of the Act. The program is funded by a reclamation fee collected on each active coal mine to finance the reclamation of abandoned coal mines and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop and submit to the Secretary of the Interior (Secretary) for approval, a program for the reclamation of abandoned coal mines. The Secretary approved the Pennsylvania AMLR Plan, effective July 31, 1982. You can find background information on the Plan, including the Secretary's findings, the disposition of comments, and the approval of the Plan in the July 30 1982, **Federal Register** (47 FR 33083). You can find later actions concerning the Pennsylvania AMLR Plan and amendments to the Plan at 30 CFR 938.20 and 938.25.

II. Description of the Proposed Amendment

By letter dated November 22, 2016 (Administrative Record No. PA 898.00), Pennsylvania sent us an amendment to its AMLR Plan under SMCRA (30 U.S.C. 1201 *et seq.*).

Pennsylvania is requesting to modify the Commonwealth's Plan to allow the PADEP to administer a State Emergency Program under Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1201–1328). The coordination of emergency reclamation work between the Commonwealth and the OSMRE will be handled by the PADEP. The PADEP intends to follow Chapter 4–120 of OSMRE's Federal Assistance Manual (FAM) entitled, ''State Emergency AML Reclamation Program.'' Coordination with other agencies for environmental clearance will be on a project specific basis as outlined in the ''OSMRE Handbook on Procedures for Implementing the National Environmental Policy Act'' and other Commonwealth procedures.

OSMRE notes that before September 30, 2010, OSMRE conducted emergency AML reclamation in Pennsylvania. Effective October 1, 2010, OSMRE transitioned emergency AML reclamation responsibilities to PADEP leading to the submittal of the proposed amendment. [Administrative Record Number PA 898.05]. The following are the proposed changes contained in Pennsylvania's submission.

A. Attached to the proposed program amendment are an official designation by the Governor of Pennsylvania in 1978 that the Department of Environmental Resources is the State Agency authorized to implement and administer the Abandoned Mine Reclamation Program, and a 2016 memorandum from the PADEP's Office of Chief Counsel specifying PADEP's statutory authority to establish and administer an Emergency Program as part of its State AMLR Plan. The Office of Chief Counsel's memorandum notes that ''Section 16 of the Land and Water Conservation and Reclamation Act (32 P.S. § 5116 (Allotment of moneys)) and the Mine Fire and Subsidence Remedial Project Indemnification Law (52 P.S. 30.201–30.206) provide PADEP the authority to conduct activities consistent with an Emergency Reclamation Program.''

The proposed program amendment includes policies and procedures the Commonwealth will follow in conducting the Emergency Response Program. Emergency response reclamation activities involve entering upon any land where eligible abandoned coal mine related emergencies exist and doing all things necessary or expedient to protect the public health, safety or general welfare from the adverse effects of legacy coal mining practices. PADEP will handle the coordination of emergency reclamation work between the State and OSMRE as outlined in PFO's OSMRE Emergency Response protocol and using the procedures set out in OSMRE's FAM. PADEP will conduct all investigations and eligibility findings required by Title IV of SMCRA. When emergency conditions warrant an immediate response, the PADEP will initiate appropriate action upon receipt of an approval, a ''Limited Emergency Response,'' or a verbal approval from OSMRE. A Limited Emergency Response is described in OSMRE's Federal Assistance Manual. The objective of the Limited Emergency Response is to stabilize the emergency aspects of the problem by eliminating the immediate danger to public health, safety, and welfare. Any remaining reclamation should then be accomplished as part of a regular non-emergency AML project.

B. PADEP may enter on any land where an emergency exists or on land adjacent thereto for access, to prevent the adverse impacts of the emergency in order to protect the public health, safety and general welfare. While PADEP will make all reasonable efforts to notify the landowners and receive consent for right of entry, the State will obtain access in accordance with 30 CFR 877.14 when property owners will not grant permission. All emergency project development, design, realty, construction, and administration will generally be done by PADEP, following the procedures used in the State's Non-Emergency Title IV Program.

On October 14, 2016, PADEP posted public notice that an opportunity

existed for public comment on the draft amendment and specifically notified stakeholders of this opportunity. The public Notice was posted in the PA Bulletin on both PADEP's online eComment and on the Bureau of Abandoned Mine Reclamation websites. No comments were received.

C. Under the proposed amendment, PADEP may undertake an emergency project in any of the eligible coalfields found in Pennsylvania and these projects may involve any eligible legacy coal mining related problems. A site is eligible for AML funding if it was mined for coal or was affected by such mining, was abandoned or left in an inadequate reclamation status prior to August 3, 1977, the date of enactment of SMCRA, and if it is determined that there is no continuing reclamation responsibility under State or other Federal laws. See 30 U.S.C. 1234. A site that was mined after August 3, 1977, may be eligible for AML funding if it meets the criteria in section 402(g)(4)(B)(i) or (ii). See 30 U.S.C. 1232(g)(4)(B)(i) or (ii).

D. The proposed program amendment satisfies the objectives of the abandoned mine land program as set out in Section 403 of SMCRA, FAM Chapter 4, OSMRE Directive AML–4 and the NEPA handbook, which are available at *https://www.osmre.gov.* The State has indicated that it will have the capability and the administrative structure to properly implement the Emergency Response Program as described in this amendment and is willing and able to work closely with OSMRE to ensure its success.

The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *www.regulations.gov.*

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Pennsylvania's State Program.

Electronic or Written Comments

If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. 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.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t. on May 31, 2018. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak, and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a plan amendment to OSMRE for review and that amendment changes the objectives, scope or major policies followed, our regulations at 30 CFR 884.14 and 884.15 require us either to hold a public hearing on a plan amendment or make a finding that the State provided adequate notice and opportunity for public comment. Pennsylvania has elected to have OSMRE publish a notice in the **Federal Register** indicating receipt of the proposed amendment and soliciting comments. We will conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 9, 2018

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2018–10483 Filed 5–15–18; 8:45 am]

BILLING CODE 4310–05–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 2016–03]

Mandatory Deposit of Electronic-Only Books: Extension of Comment Period

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The U.S. Copyright Office is further extending the deadline for the submission of written comments in

response to its April 16, 2018 notice of proposed rulemaking, regarding revisions to its regulations to finalize a 2010 interim rule regarding mandatory deposit of electronic-only works, and to make electronic-only books published in the United States subject to the mandatory deposit requirements if they are affirmatively demanded by the Office.

DATES: The comment period for the notice of proposed rulemaking, published on April 16, 2018 at 83 FR 16269, is extended by an additional forty-five days. Comments must be made in writing and must be received in the U.S. Copyright Office no later than July 16, 2018.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov*. Specific instructions for submitting comments are available on the Copyright Office website at *https://www.copyright.gov/rulemaking/ebookdeposit/*. If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office for special instructions using the contact information below.

FOR FURTHER INFORMATION CONTACT: Cindy P. Abramson, Assistant General Counsel, by email at *ciab@loc.gov* or John R. Riley at *jril@loc.gov*. Both can be reached by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION: On April 16, 2018, the U.S. Copyright Office issued a proposed rulemaking making revisions to its regulations to finalize a 2010 interim rule regarding mandatory deposit of electronic-only works, and to make electronic-only books published in the United States subject to the mandatory deposit requirements if they are affirmatively demanded by the Office.[1] The Office invited public comment on the notice of proposed rulemaking. To ensure that members of the public have sufficient time to respond, and to ensure that the Office has the benefit of a complete record, the Office is extending the submission deadline by an additional forty-five days. Written comments now are due no later than July 16, 2018.

Dated: May 11, 2018.

Sarang V. Damle,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2018–10421 Filed 5–15–18; 8:45 am]

BILLING CODE 1410–30–P

[1] 83 FR 16269 (April 16, 2018).

Notices

Federal Register
Vol. 83, No. 95
Wednesday, May 16, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0017]

Notice of Request for Revision of an Approved Information Collection (Voluntary Recalls of Meat, Poultry, and Egg Products)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to revise the approved information collection regarding voluntary recalls from commerce of meat, poultry, and egg products. FSIS has reduced the burden estimate by 2,000 hours due to updated information on recall effectiveness checks. The approval for this information collection will expire on September 30, 2018.

DATES: Submit comments on or before July 16, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0017. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Recalls of Meat, Poultry, and Egg Products.

OMB Control Number: 0583–0135.

Expiration Date: 9/30/2018.

Type of Request: Revision of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21U.S.C. 451, *et seq.*) and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting a revision to the approved information collection addressing paperwork requirements regarding the Agency's requests that establishments voluntarily recall from commerce of meat, poultry, and egg products. FSIS has reduced the burden estimate by 2,000 hours due to updated information on recall effectiveness checks. The approval for this information collection will expire on September 30, 2018.

FSIS requests that a firm that has produced or imported meat, poultry, or egg product that is adulterated or misbranded and has distributed it in commerce recall the product in question. When there is a recall, FSIS asks that the recalling firm (*e.g.,* a manufacturer, distributor, or importer of record) provide the Agency with some basic information, including the identity of the recalled product, the reason for the recall, and information about the distributors and retail consignees to whom the product was actually shipped. Under the FMIA, firms are required to keep such records that fully and correctly disclose all transactions in their business (21 U.S.C. 642). Under the PPIA, firms are required to keep such records as are properly necessary for the effective enforcement of the PPIA (21 U.S.C. 460(b)).

When a firm voluntarily recalls a product, FSIS conducts recall effectiveness checks. In conducting recall effectiveness checks, if the recall is to the retail or consumer level, the Agency contacts the distributors and actual retail consignees to ensure that they were notified of the recall, to verify the amount of product they received, and to confirm that they are removing the product from commerce and returning it to the recalling firm or otherwise disposing of the product.

FSIS has made the following estimates based upon an information collection assessment.

Estimate of Burden: FSIS estimates that it will take respondents an average of approximately 1.08 hours to collect and make this information available to FSIS.

Respondents: Official establishments, importers of record, and retail consignees.

Estimated Number of Respondents: 6,090.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,600 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the

validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–10484 Filed 5–15–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2018–0018]

Notice of Request To Renew an Approved Information Collection (Requirements To Notify FSIS of Adulterated or Misbranded Product, Prepare and Maintain Written Recall Procedures, and Document Certain HACCP Plan Reassessments)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to renew the approved information collection regarding requirements for official establishments to notify FSIS of adulterated or misbranded product, prepare and maintain written recall procedures, and document certain HACCP plan reassessments. The approval for this information collection will expire on September 30, 2018. FSIS is making no changes to the approved collection. The public may comment on either the entire information collection or on one of its three parts.

DATES: Submit comments on or before July 16, 2018.

ADDRESSES: FSIS invites interested persons to submit comments on this **Federal Register** notice. Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Room 6065, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2018–0018. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Room 6065, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

SUPPLEMENTARY INFORMATION:

Title: Requirements for Official Establishments to Notify FSIS of Adulterated or Misbranded Product, Prepare and Maintain Written Recall Procedures, and Document Certain HACCP Plan Reassessments.

OMB Control Number: 0583–0144.

Expiration Date: 9/30/2018.

Type of Request: Renewal of an approved information collection.

Abstract: FSIS, by delegation (7 CFR 2.18, 2.53), exercises the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). These statutes mandate that FSIS protect the public by verifying that

meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

The regulations at 9 CFR 418.2, 418.3 and 417.4(a)(3) require establishments to notify FSIS of adulterated or misbranded product, prepare and maintain written recall procedures, and document certain HACCP plan reassessments. Accordingly, FSIS requires three information collection activities under these regulations. First, FSIS requires that official establishments notify the appropriate District Office that an adulterated or misbranded product received by or originating from the establishment has entered commerce, if the establishment believes or has reason to believe that this has happened. Second, FSIS requires that establishments prepare and maintain written procedures for the recall of meat and poultry products produced and shipped by the establishment for use should it become necessary for the establishment to remove product from commerce. These written recall procedures have to specify how the establishment will decide whether to conduct a product recall, and how the establishment will effect the recall should it decide that one is necessary. Finally, FSIS requires that establishments document each reassessment of the establishment's HACCP plans. FSIS requires establishments to reassess their HACCP plans annually and whenever any changes occur that could affect the hazard analysis or alter the HACCP plan. For annual reassessments, if the establishment determines that no changes are necessary, documentation of this determination is not necessary.

FSIS is requesting renewal of the approved information collection addressing paperwork and recordkeeping requirements for these three activities. The approval for this information collection will expire on September 30, 2018. FSIS is making no changes to the approved collection. The public may comment on either the entire information collection or on one of its three parts. FSIS has made the following estimates based upon an information collection assessment.

Estimate of Burden of Average Hours per Response: 1.159.

Respondents: Official meat and poultry products establishments.

Estimated Number of Respondents: 6,300.

Estimated Number of Responses: 40,960.

Estimated Number of Responses per Respondent: 6.5.

Estimated Total Annual Burden on Respondents: 47,475.

Copies of this information collection assessment can be obtained from Gina Kouba, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6065, South Building, Washington, DC 20250–3700; (202) 720–5627.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the method and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *http://www.fsis.usda.gov/federal-register.*

FSIS also will make copies of this publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export information, regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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How to File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf*, or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442.

Email: program.intake@usda.gov.

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.), should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC.

Paul Kiecker,

Acting Administrator.

[FR Doc. 2018–10489 Filed 5–15–18; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–084]

Certain Quartz Surface Products From the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 7, 2018.

FOR FURTHER INFORMATION CONTACT: Andrew Medley or Whitley Herndon at (202) 482–4987 or (202) 482–6274, respectively; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On April 17, 2018, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) Petition concerning imports of certain quartz surface products (quartz surface products) from the People's Republic of China (China), filed in proper form on behalf of Cambria Company LLC (the petitioner).[1] The AD Petition was accompanied by a countervailing duty (CVD) Petition concerning imports of quartz surface products from China (collectively, Petition). The petitioner is a domestic producer of quartz surface products.[2]

On April 20, 26, and 30, 2018, Commerce requested supplemental information pertaining to certain aspects of the Petition.[3] The petitioner responded to these requests on April 24 and 30, and May 1, 2018, respectively.[4] On May 1, 2018, we received comments on industry support and a polling request from M S International, Inc. (MSI), a U.S. importer.[5] On May 3, 2018, the petitioner provided a response to MSI's comments on industry support.[6] On May 4, 2018, MSI submitted comments on the petitioner's Industry Support Supplement.[7]

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of quartz surface products from China are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, the domestic industry producing quartz surface products in the United States. Consistent with section 732(b)(1) of the Act, the Petition is accompanied by information reasonably available to the petitioner supporting its allegation.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the AD investigation that the petitioner is requesting.[8]

Period of Investigation

Because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) is October 1, 2017, through March 31, 2018.

Scope of the Investigation

The products covered by this investigation are quartz surface products from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Scope Comments

During our review of the Petition, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[9] As a result of these exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the preamble to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[10] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[11] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on May 29, 2018, which is the next business day after 20 calendar days from the signature date of this notice.[12] Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 7, 2018, which is 10 calendar days from the initial comments deadline.

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of each of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[13] An electronically-filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper

[1] *See* Petitioner's Letter, ''Petitions for the Imposition of Antidumping Duties and Countervailing Duties: Certain Quartz Surface Products from the People's Republic of China,'' dated April 17, 2018 (the Petition).

[2] *See* Volume I of the Petition at 2.

[3] *See* Commerce Letter re: Petition for the Imposition of Antidumping Duties on Imports of Certain Quartz Surface Products from the People's Republic of China: Supplemental Questions, dated April 20, 2018; Memoranda re: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Quartz Surface Products from the People's Republic of China, dated April 27, 2018, and re: Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Quartz Surface Products from the People's Republic of China, dated May 1, 2018.

[4] *See* Petitioner's Letters, ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions—Antidumping,'' dated April 24, 2018 (AD Supplement); ''Certain Quartz Surface Products from the People's Republic of China: Responses to Supplemental Questions—General Issues,'' dated April 24, 2018 (General Issues Supplement); ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions—Antidumping,'' dated April 30, 2018 (Second Supplement); and ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions re: Scope,'' dated May 1, 2018 (Scope Supplement).

[5] *See* letter from M S International, Inc., ''Quartz Surface Products from the People's Republic of China: Comments on the Lack of Standing of the Petitioner and Requests for Action,'' dated May 1, 2018 (M S International Standing Challenge).

[6] *See* petitioner's letter, ''Certain Quartz Surface Products from the People's Republic of China: Petitioner's Response to MSI's Comments on Standing,'' dated May 3, 2018 (Industry Support Supplement).

[7] *See* letter from M S International, Inc., ''Antidumping and Countervailing Duty Investigations of Quartz Surface Products from the People's Republic of China: Reply to Petitioner's Comments on Lack of Standing,'' dated May 4, 2018 (Second M S International Standing Challenge).

[8] *See* the ''Determination of Industry Support for the Petition'' section, *infra.*

[9] *See* General Issues Supplement at 2–6 and Exhibit 2; *see also* Second Supplement at 1 and Supplemental Exhibit I–1; and Scope Supplement at Exhibit 1.

[10] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] *See* 19 CFR 351.303(b).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011); *see also Enforcement and Compliance; Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Comments on Product Characteristics for AD Questionnaires

Commerce is providing interested parties an opportunity to comment on the appropriate physical characteristics of quartz surface products to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant factors of production accurately, as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on May 29, 2018, which is the next business day after 20 calendar days from the signature date of this notice.[14] Any rebuttal comments must be filed by 5:00 p.m. ET on June 5, 2018. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the China less-than-fair-value investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[17] Based on our analysis of the information submitted on the record, we have determined that quartz surface products, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2017 and compared this to the estimated total production of the domestic like product for the entire domestic industry.[19] We relied on data the petitioner provided for purposes of measuring industry support.[20]

In a letter dated May 1, 2018, MSI, a U.S. importer, submitted comments on industry support and requested that Commerce poll the industry to determine industry support.[21] The petitioner responded to these comments in the Industry Support Supplement, dated May 3, 2018. In a letter dated May 4, 2018, MSI submitted comments on the petitioner's Industry Support Supplement.[22] For further discussion of these comments, *see* Attachment II of the Initiation Checklist.

Our review of the data provided in the Petition, the General Issues Supplement, Industry Support Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[23] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[24] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[25] Finally, the domestic producers (or workers) have met the statutory criteria for industry support

[14] *See* 19 CFR 351.303(b).

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[17] *See* Volume I of the Petition at 13.

[18] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Quartz Surface Products from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[19] *See* Volume I of the Petition at 3 and Exhibit I–3; *see also* General Issues Supplement at 13–14 and Exhibit 15.

[20] *Id.* at 3 and Exhibit I–3; *see also* General Issues Supplement at 13–14 and Exhibit 15; *see also* Industry Support Supplement at 3 and Exhibit 1. For further discussion, *see* Initiation Checklist at Attachment II.

[21] *See* M S International Standing Challenge.

[22] *See* Second M S International Standing Challenge.

[23] *See* Volume I of the Petition, at 3 and Exhibit I–3; *see also* General Issues Supplement at 13–14 and Exhibit 15; *see also* Industry Support Supplement at 3 and Exhibit 1. For further discussion, *see* Initiation Checklist at Attachment II.

[24] *Id.; see also* section 732(c)(4)(D) of the Act.

[25] *See* Initiation Checklist at Attachment II.

under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[26] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the AD investigation that it is requesting that Commerce initiate.[27]

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and price depression or suppression; lost sales and lost revenues; negative effects on the existing product development and production efforts of the domestic industry; and negative impact on the domestic industry's financial and operating indicators, such as sales, profits, return on investment, cash flow, capacity utilization, and employment.[29] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which Commerce based its decision to initiate an AD investigation of imports of quartz surface products from China. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Initiation Checklist.

Export Price

The petitioner based export price (EP) on quoted offer prices for quartz surface products produced in China.[31] The petitioner made no deductions from U.S. price.[32]

Normal Value

Commerce considers China to be an NME country.[33] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this investigation. Accordingly, NV in China is appropriately based on factors of production (FOPs) valued in a surrogate market economy country, in accordance with section 773(c) of the Act.[34]

The petitioner claims that Mexico is an appropriate surrogate country for China because it is a market economy country that is at a level of economic development comparable to that of China, it is a significant producer of comparable merchandise, and public information is available to value factor input costs.[35] The petitioner provided publicly available information from Mexico to value all FOPs.[36] Based on the information provided by the petitioner, we determine that it is appropriate to use Mexico as the primary surrogate country for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the FOPs and volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner used its own product-specific consumption rates to estimate the Chinese manufacturers' FOPs.[37] The petitioner valued the estimated FOPs using surrogate values from Mexico, as noted above.[38] Where appropriate, the petitioner used the average POI exchange rate to convert the data to U.S. dollars.[39]

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of quartz surface products from China are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to NV in accordance with sections 772 and 773 of the Act, the estimated dumping margins for quartz surface products from China range from 303.38 percent to 336.69 percent.[40]

Initiation of Less-than-Fair-Value Investigation

Based upon the examination of the Petition, we find that the Petition meets the requirements of section 732 of the Act. Therefore, we are initiating an AD investigation to determine whether imports of quartz surface products from China are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

The petitioner named 308 companies in China as producers/exporters of quartz surface products.[41] After considering our resources, Commerce has determined that we do not have sufficient administrative resources to

[26] *Id.*

[27] *Id.*

[28] *See* General Issues Supplement at 14–15 and Exhibit 16.

[29] *See* Volume I of the Petition at 10–30 and Exhibits I–3 and I–9 through I–19; *see also* General Issues Supplement at 14–15 and Exhibits 16 through 18.

[30] *See* Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Quartz Surface Products from the People's Republic of China.

[31] *See* Initiation Checklist.

[32] *Id.*

[33] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination,* 82 FR 50858, 50861 (November 2, 2017) (citing Memorandum to Gary Taverman, ''China's Status as a Non-Market Economy,'' dated October 26, 2017), unchanged in *Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[34] *See* Initiation Checklist.

[35] *See* Volume II of the Petition at 2–5.

[36] *Id.* at 7 and Exhibit II–11; *see also* AD Supplement at Exhibits II–11(D) and II–11(E); and Second Supplement at 4–5 and Exhibits II–11(D) and II–11(J)(1).

[37] *Id.* at Exhibit II–11 at Attachments A and B.

[38] *Id.* at Exhibit II–11; *see also* AD Supplement at Exhibits II–11(D) and II–11(E); and Second Supplement at 2–4 and Exhibits II–11(D) through II–11(J)(1).

[39] *See* Second Supplement at 2 and Exhibits II–11(K) and II–11(I)(1).

[40] *See* Initiation Checklist.

[41] *See* General Issues Supplement at 1–2 and Exhibit 1.

issue quantity and value (Q&V) questionnaires to all 308 identified producers and exporters. Therefore, Commerce has determined to limit the number of Q&V questionnaires we will send out to exporters and producers identified in U.S. Customs and Border Protection (CBP) data for U.S. imports of quartz surface products during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the ''Scope of the Investigation,'' in the Appendix. Accordingly, Commerce will send Q&V questionnaires based on producers and exporters that are identified in the Petition and that also appear in the CBP data.

On April 30, 2018, Commerce released CBP data under administrative protective order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data must do so within three business days of the publication date of the notice of initiation of this AD investigation.[42] We further stated that we will not accept rebuttal comments.[43]

In addition, Commerce will post the Q&V questionnaire along with filing instructions on the Enforcement and Compliance website at *http://www.trade.gov/enforcement/news.asp.* In accordance with our standard practice for respondent selection in AD cases involving NME countries, we intend to base respondent selection on the responses to the Q&V questionnaire that we receive.

Producers/exporters of quartz surface products that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Enforcement & Compliance's website. The Q&V response must be submitted by the relevant Chinese exporters/producers no later than 5:00 p.m. ET on May 21, 2018. All Q&V responses must be filed electronically via ACCESS.

Separate Rates

In order to obtain separate-rate status in an NME investigation, exporters and producers must submit a separate-rate application.[44] The specific requirements for submitting a separate-rate application in this investigation are outlined in detail in the application itself, which is available on Commerce's website at *http://enforcement.trade.gov/nme/nme-sep-rate.html.* The separate-rate application will be due 30 days after publication of this initiation notice.[45] Exporters and producers who submit a separate-rate application and have been selected as mandatory respondents will be eligible for consideration for separate-rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China submit a response to both the Q&V questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. Companies not filing a timely Q&V response will not receive separate-rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

> {w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.[46]

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public version of the Petition have been provided to the government of China *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of quartz surface products from China are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination will result in the investigation being terminated.[47] Otherwise, the investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). 19 CFR 351.301(b) requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted[48] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[49] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET

[42] *See* Memorandum, ''Certain Quartz Surface Products from China Antidumping Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated April 30, 2018.

[43] *Id.*

[44] *See* Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at *http://enforcement.trade.gov/policy/bull05-1.pdf* (Policy Bulletin 05.1).

[45] Although in past investigations this deadline was 60 days, consistent with 19 CFR 351.301(a), which states that ''the Secretary may request any person to submit factual information at any time during a proceeding,'' this deadline is now 30 days.

[46] *See* Policy Bulletin 05.1 at 6 (emphasis added).

[47] *Id.*

[48] *See* 19 CFR 351.301(b).

[49] *See* 19 CFR 351.301(b)(2).

on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[50] Parties must use the certification formats provided in 19 CFR 351.303(g).[51] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: May 7, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Investigation

The merchandise covered by the investigation is certain quartz surface products.[52] Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.,* quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.,* an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of this investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products are surface products in which the crushed glass content is greater than any other single material, by actual weight.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2018–10533 Filed 5–15–18; 8:45 am]

BILLING CODE 3510–DS–P

[50] *See* section 782(b) of the Act.

[51] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[52] Quartz surface products may also generally be referred to as engineered stone or quartz, artificial stone or quartz, agglomerated stone or quartz, synthetic stone or quartz, processed stone or quartz, manufactured stone or quartz, and Bretonstone®.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–085]

Certain Quartz Surface Products From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable May 7, 2018.

FOR FURTHER INFORMATION CONTACT: Darla Brown at (202) 482–1791, Joshua Tucker at (202) 482–2044, or Terre Keaton Stefanova at (202) 482–1280, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On April 17, 2018, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain quartz surface products (quartz surface products) from the People's Republic of China (China), filed in proper form on behalf of Cambria Company LLC (the petitioner).[1] The CVD Petition was accompanied by an antidumping duty (AD) Petition concerning imports of quartz surface products China. The petitioner is a domestic producer of quartz surface products.[2]

On April 20, 2018, Commerce requested supplemental information

[1] *See* the petitioner's Letter, ''Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Quartz Surface Products from the People's Republic of China,'' dated April 17, 2018 (the Petition).

[2] *Id.* at Volume I of the Petition at I–2.

pertaining to certain aspects of the Petition. The petitioner filed additional information on April 24, 2018.[3] On May 1, 2018, Commerce requested that the petitioner clarify the scope of the Petition, and in response, the petitioner submitted certain revisions to the scope.[4] On May 1, 2018, we received comments on industry support and a polling request from M S International, Inc. (MSI), a U.S. importer.[5] On May 3, 2018, the petitioner provided a response to MSI's comments on industry support.[6] On May 4, 2018, MSI submitted comments on the petitioner's Industry Support Supplement.[7]

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of quartz surface products in China and imports of such products are materially injuring, or threatening material injury to, the domestic quartz surface products industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating a CVD investigation, the Petition is accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support necessary for the initiation of the requested CVD investigation.[8]

Period of Investigation

Because the Petition was filed on April 17, 2018, the period of investigation is January 1, 2017, through December 31, 2017.

Scope of the Investigation

The products covered by this investigation are quartz surface products from China. For a full description of the scope of this investigation, *see* the Appendix to this notice.

Scope Comments

During our review of the Petition, Commerce issued questions to, and received responses from, the petitioner pertaining to the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.[9] As a result of these exchanges, the scope of the Petition was modified to clarify the description of merchandise covered by the Petition. The description of the merchandise covered by this initiation, as described in the Appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (scope).[10] Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,[11] all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit such comments by 5:00 p.m. Eastern Time (ET) on May 29, 2018, which is the next business day after 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on June 8, 2018, which is 10 calendar days from the initial comments deadline.[12]

Commerce requests that any factual information parties consider relevant to the scope of the investigation be submitted during this period. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All such submissions must be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS).[13] An electronically filed document must be received successfully in its entirety by the time and date it is due. Documents exempted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 18022, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, and stamped with the date and time of receipt by the applicable deadlines.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified representatives of the GOC of the receipt of the Petition and provided them the opportunity for consultations with respect to the Petition.[14] The GOC did not request consultations.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) At least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing

[3] *See* the petitioner's Letter, ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions—General Issues,'' dated April 24, 2018 (General Issues Supplement). *See also* Petitioner's Letter, ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions—Countervailing Duties,'' dated April 24, 2018.

[4] *See* the petitioner's Letter, ''Certain Quartz Surface Products from the People's Republic of China: Response to Supplemental Questions re: Scope,'' dated May 1, 2018.

[5] *See* letter from M S International, Inc., ''Quartz Surface Products from the People's Republic of China: Comments on the Lack of Standing of the Petitioner and Requests for Action,'' dated May 1, 2018 (M S International Standing Challenge).

[6] *See* the petitioner's letter, ''Certain Quartz Surface Products from the People's Republic of China: Petitioner's Response to MSI's Comments on Standing,'' dated May 3, 2018 (Industry Support Supplement).

[7] letter from M S International, Inc., ''Antidumping and Countervailing Duty Investigations of Quartz Surface Products from the People's Republic of China: Reply to Petitioner's Comments on Lack of Standing,'' dated May 4, 2018 (Second M S International Standing Challenge).

[8] *See* ''Determination of Industry Support for the Petition'' section, *infra.*

[9] *See* General Issues Supplement, at 3–5.

[10] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

[11] *See* 19 CFR 351.102(b)(21) (defining ''factual information'').

[12] *See* 19 CFR 351.303(b).

[13] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011). *See also Enforcement and Compliance: Change of Electronic Filing System Name,* 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, which went into effect on August 5, 2011. Information on help using ACCESS can be found at *https://access.trade.gov/help.aspx,* and a handbook can be found at *https://access.trade.gov/help/Handbook%20on%20Electronic%20Filling%20Procedures.pdf.*

[14] *See* Letter from Commerce, ''Countervailing Duty Petition on Certain Quartz Surface Products from the People's Republic of China,'' dated April 18, 2018.

support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the ''industry.''

Section 771(4)(A) of the Act defines the ''industry'' as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,[15] they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.[16]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation'' (*i.e.,* the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.[17] Based on our analysis of the information submitted on the record, we have determined that quartz surface products, as defined in the scope, constitute a single domestic like product, and we have analyzed industry support in terms of that domestic like product.[18]

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the ''Scope of the Investigation,'' in the Appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2017 and compared this to the estimated total production of the domestic like product for the entire domestic industry.[19] We relied on data the petitioner provided for purposes of measuring industry support.[20]

In a letter dated May 1, 2018, MSI, a U.S. importer, submitted comments on industry support and requested that Commerce poll the industry to determine industry support.[21] The petitioner responded to these comments in the Industry Support Supplement, dated May 3, 2018. In a letter dated May 4, 2018, MSI submitted comments on the petitioner's Industry Support Supplement.[22] For further discussion of these comments, *see* Attachment II of the Initiation Checklist.

Our review of the data provided in the Petition, the General Issues Supplement, Industry Support Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.[23] First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.,* polling).[24] Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.[25] Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.[26] Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the CVD investigation that it is requesting that Commerce initiate.[27]

Injury Test

Because China is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.[28]

The petitioner contends that the industry's injured condition is illustrated by a significant and increasing volume of subject imports; reduced market share; underselling and

[15] *See* section 771(10) of the Act.

[16] *See USEC, Inc.* v. *United States,* 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd.* v. *United States,* 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

[17] *See* Volume I of the Petition, at 13.

[18] For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, *see* Countervailing Duty Investigation Initiation Checklist: Certain Quartz Surface Products from the People's Republic of China (Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Quartz Surface Products from the People's Republic of China (Attachment II). This checklist is dated concurrently with this notice and on file electronically via ACCESS. Access to documents filed via ACCESS is also available in the Central Records Unit, Room B8024 of the main Department of Commerce building.

[19] *See* Volume I of the Petition, at 3 and Exhibit I–3; *see also* General Issues Supplement, at 13–14 and Exhibit 15.

[20] *Id.* at 3 and Exhibit I–3; *see also* General Issues Supplement, at 13–14 and Exhibit 15; *see also* Industry Support Supplement, at 3 and Exhibit 1. For further discussion, *see* Initiation Checklist, at Attachment II.

[21] *See* M S International Standing Challenge.

[22] *See* Second M S International Standing Challenge.

[23] *See* Volume I of the Petition, at 3 and Exhibit I–3; *see also* General Issues Supplement at 13–14 and Exhibit 15; *see also* Industry Support Supplement at 3 and Exhibit 1. For further discussion, *see* Initiation Checklist at Attachment II.

[24] *Id.; see also* section 702(c)(4)(D) of the Act.

[25] *See* Initiation Checklist, at Attachment II.

[26] *Id.*

[27] *Id.*

[28] *See* General Issues Supplement, at 14–15 and Exhibit 16.

price depression or suppression; lost sales and lost revenues; negative effects on the existing product development and production efforts of the domestic industry; and negative impact on the domestic industry's financial and operating indicators, such as sales, profits, return on investment, cash flow, capacity utilization, and employment.[29] We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.[30]

Initiation of CVD Investigation

Based on the examination of the Petition, we find that the Petition meets the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of quartz surface products from China benefit from countervailable subsidies conferred by the GOC. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on all but four of the alleged subsidy programs. For a full discussion of the basis for our decision to initiate on each program, *see* Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

The petitioner named 301 companies [31] as producers/exporters of quartz surface products in China. Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event Commerce determines that the number of companies is large and it cannot individually examine each company based upon Commerce's resources, where appropriate, Commerce intends to select mandatory respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of quartz surface products from China during the POI under the appropriate Harmonized Tariff Schedule of the United States number listed in the ''Scope of the Investigation,'' in the Appendix.

On May 1, 2018, Commerce released CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment regarding the CBP data and respondent selection must do so within three business days of the publication date of the notice of initiation of this CVD investigation.[32] Commerce will not accept rebuttal comments regarding the CBP data or respondent selection.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce's website at *http://enforcement.trade.gov/apo.*

Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the date noted above. We intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the GOC *via* ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

We will notify the ITC of our initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of quartz surface products from China are materially injuring, or threatening material injury to, a U.S. industry.[33] A negative ITC determination will result in the investigation being terminated.[34] Otherwise, this investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). When submitting factual information, 19 CFR 351.301(b) requires any party to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted [35] and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.[36] Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, we may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, we will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; under limited circumstances we will grant

[29] *See* Volume I of the Petition, at 10–30 and Exhibits I–3 and I–9 through I–19; *see also* General Issues Supplement, at 14–15 and Exhibits 16 through 18.

[30] *See* Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Quartz Surface Products from the People's Republic of China.

[31] *See* Volume I of the Petition, at Exhibit I–8.

[32] *See* Memorandum, ''Certain Quartz Surface Products from the People's Republic of China Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,'' dated May 1, 2018.

[33] *See* section 703(a)(2) of the Act.

[34] *See* section 703(a)(1) of the Act.

[35] *See* 19 CFR 351.301(b).

[36] *See* 19 CFR 351.301(b)(2).

untimely-filed requests for the extension of time limits. Parties should review *Extension of Time Limits; Final Rule,* 78 FR 57790 (September 20, 2013), available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in this investigation.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.[37] Parties must use the certification formats provided in 19 CFR 351.303(g).[38] Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, Commerce published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Parties wishing to participate in this investigation should ensure that they meet the requirements of these procedures (*e.g.,* the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act and 19 CFR 351.203(c).

Dated: May 7, 2018.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation is certain quartz surface products.[39] Quartz surface products consist of slabs and other surfaces created from a mixture of materials that includes predominately silica (*e.g.,* quartz, quartz powder, cristobalite) as well as a resin binder (*e.g.,* an unsaturated polyester). The incorporation of other materials, including, but not limited to, pigments, cement, or other additives does not remove the merchandise from the scope of the investigation. However, the scope of the investigation only includes products where the silica content is greater than any other single material, by actual weight. Quartz surface products are typically sold as rectangular slabs with a total surface area of approximately 45 to 60 square feet and a nominal thickness of one, two, or three centimeters. However, the scope of this investigation includes surface products of all other sizes, thicknesses, and shapes. In addition to slabs, the scope of this investigation includes, but is not limited to, other surfaces such as countertops, backsplashes, vanity tops, bar tops, work tops, tabletops, flooring, wall facing, shower surrounds, fire place surrounds, mantels, and tiles. Certain quartz surface products are covered by the investigation whether polished or unpolished, cut or uncut, fabricated or not fabricated, cured or uncured, edged or not edged, finished or unfinished, thermoformed or not thermoformed, packaged or unpackaged, and regardless of the type of surface finish.

In addition, quartz surface products are covered by the investigation whether or not they are imported attached to, or in conjunction with, non-subject merchandise such as sinks, sink bowls, vanities, cabinets, and furniture. If quartz surface products are imported attached to, or in conjunction with, such non-subject merchandise, only the quartz surface product is covered by the scope.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise fabricated in a third country, including by cutting, polishing, curing, edging, thermoforming, attaching to, or packaging with another product, or any other finishing, packaging, or fabrication that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the quartz surface products.

The scope of the investigation does not cover quarried stone surface products, such as granite, marble, soapstone, or quartzite. Specifically excluded from the scope of the investigation are crushed glass surface products. Crushed glass surface products are surface products in which the crushed glass content is greater than any other single material, by actual weight.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under the following subheading: 6810.99.0010. Subject merchandise may also enter under subheadings 6810.11.0010, 6810.11.0070, 6810.19.1200, 6810.19.1400, 6810.19.5000, 6810.91.0000, 6810.99.0080, 6815.99.4070, 2506.10.0010, 2506.10.0050, 2506.20.0010, 2506.20.0080. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

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[37] *See* section 782(b) of the Act.

[38] *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[39] Quartz surface products may also generally be referred to as engineered stone or quartz, artificial stone or quartz, agglomerated stone or quartz, synthetic stone or quartz, processed stone or quartz, manufactured stone or quartz, and Bretonstone®.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG244

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Groundfish Management Team (GMT) will hold a webinar that is open to the public.

DATES: The GMT webinar will be held Wednesday, May 30, 2018, from 1:30 p.m. until 4:30 p.m. The GMT webinar end time is an estimate, the meeting will adjourn when business for the day is completed.

ADDRESSES: To attend the webinar (1) join the meeting by visiting this link *http://www.gotomeeting.com/*; (2) enter the Webinar ID: 798–578–157, and (3) enter your name and email address (required). After logging in to the webinar, please (1) dial this TOLL number +1 (669) 224–3412 (not a toll-free number); (2) enter the attendee phone audio access code 798–578–157; and (3) then enter your audio phone pin (shown after joining the webinar). NOTE: We have disabled Mic/Speakers as on option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the *https://www.gotomeeting.com/meeting/ipad-iphone-android-apps*). You may send an email to Mr. Kris Kleinschmidt at *Kris.Kleinschmidt@noaa.gov* or contact him at (503) 820–2280, extension 411 for technical assistance. A public listening station will also be available at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384; telephone: (503) 820–2280.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Pacific Council; telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT webinar is to prepare for the June 2018 Pacific Council meeting. A detailed agenda for

the webinar will be available on the Pacific Council's website prior to the meeting. The GMT may also address other assignments relating to groundfish management. No management actions will be decided by the GMT. The GMT's task will be to develop recommendations for consideration by the Pacific Council at its June 2018 meeting.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The public listening station is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2411 at least 10 business days prior to the meeting date.

Dated: May 11, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–10450 Filed 5–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG189

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Stock ID Review Workshop for Cobia (Rachycentron canadum)

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

ACTION: Notice of SEDAR 58 Stock Identification (ID) Review Workshop for Cobia.

SUMMARY: The SEDAR 58 Cobia Stock ID Process will be a multi-step process consisting of a series of workshops and webinars: Stock ID Workshop; Stock ID Review Workshop; Joint Cooperator Technical Review; and Science and Management Leadership Call. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 58 Cobia Stock ID Review Workshop will be held on June 5, 2018, from 1:30 p.m. to 6 p.m.; June 6, 2018, from 9 a.m. until 6 p.m.; and June 7, 2018, from 9 a.m. until 1 p.m. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from, or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The SEDAR 58 Cobia Stock ID Review Workshop will be held at the Crowne Plaza Charleston Airport, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (843) 744–4422.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org*.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571–4366; email: *julia.byrd@safmc.net*.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing a workshop and/or webinars; and (3) Review Workshop. Cobia Stock ID will be resolved prior to the start of the SEDAR 58 Data Workshop using the multi-step Stock ID Process. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Cobia Stock ID Review Workshop are as follows:

1. Review the recommendations of the SEDAR 58 Cobia Stock ID Workshop.

2. Determine whether the stock structure recommended by the SEDAR Stock ID Workshop is reasonable and appropriate to use for the SEDAR 58 assessment unit stock.

3. Prepare a report documenting the Review Panel's findings and recommendations regarding the SEDAR 58 assessment unit stock.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 11, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–10448 Filed 5–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG207

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Legislative Committee will meet on June 5, 2018 in Kodiak, AK.

DATES: The meeting will be held on Tuesday, June 5, 2018, from 8 a.m. to 12 p.m.

ADDRESSES: The meeting will be held in the Katurwik Room at the Kodiak Harbor Convention Center, 236 Rezanof Drive, 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: David Witherell, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, June 5, 2018

The meeting agenda includes: (a) Update on MSA legislation and related bills, including CCC comments, (b) public comment, and (c) recommendations to the Council. 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 to David Witherell, Council staff: *David.witherell@noaa.gov,* 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 at the scheduled place on the agenda.

Special Accommodations

The meeting is 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 11, 2018.

Tracey L. Thompson,

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

[FR Doc. 2018–10449 Filed 5–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG204

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Annapolis Passenger Ferry Dock Project, Puget Sound, Washington

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received a request from Kitsap Transit for authorization to take marine mammals incidental to the Annapolis Passenger Ferry Dock Project in Puget Sound, Washington. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than June 15, 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.Daly@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *https://www.fisheries.noaa.gov/node/23111* 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: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/node/23111.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the

wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

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

This action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) 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 March 5, 2018, NMFS received a request from Kitsap Transit for an IHA to take marine mammals incidental to pile driving and removal associated with upgrades to the Annapolis Ferry Terminal, Puget Sound, Washington. Kitsap Transit submitted a revised application on May 3, 2018 which NMFS deemed adequate and complete. Kitsap Transit's request is for take of harbor seal (*Phoca vitulina richardii*), Steller sea lion (*Eumetopias jubatus monteriensis*), California sea lion (*Zalophus californianu*), and harbor porpoise (*Phocoena phocoena vomerina*) by Level B harassment only. Neither Kitsap Transit nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

Description of Proposed Activity

Overview

Kitsap Transit is proposing to upgrade the existing dock at its Annapolis Ferry Terminal to accommodate larger vessels by extending the dock into deeper water and bring the terminal into compliance with American Disability Act (ADA) accessibility standards. The project includes removing 10 existing concrete and steel piles that support the existing pier and float and installing 12 new steel piles to support updated structures. Piles may be removed using a vibratory hammer and new piles may be installed using a vibratory and, if necessary, an impact hammer. The project is anticipated to take 8 weeks to complete and could start as early as July 2, 2018; however, Kitsap Transit anticipates it will take a maximum of 17 days to completed pile-related work.

Dates and Duration

The project would occur for eight weeks between July 1, 2018 and March 2, 2019. Pile removal has been conservatively estimated to occur at a rate of 2 piles removed per day, which would require 5 days to remove 10 piles. Pile installation was conservatively estimated to occur at a rate of 1 pile per day, which would require 12 days to install 12 piles. In total, there would be 17 days (maximum) of pile driving.

Specific Geographic Region

The Annapolis Ferry Terminal is located in Sinclair Inlet across from Navy Base Kitsap (NBK) Bremerton and southwest of Bainbridge Island. Potential areas ensonfied during pile driving include Sinclair Inlet and portions of Port Washington Narrows, Port Orchard Passage and Rich Passage. These waterbodies range up to 130 feet in depth and substrates include silt/mud, sand, gravel, cobbles and rock outcrops. The terminal itself and parking area contains a hardened shoreline comprised of sheet piles.

Detailed Description of Specific Activity

The Annapolis Ferry Terminal is 34 years old with a useful life of 40 years. Kitsap Transit has determined upgrades are necessary to meet ADA requirements and accommodate larger ferry vessels. These improvements are designed to improve the ferry operation, environmental conditions, overall experience for all passengers and provide equal access for elderly and disabled passengers. To make the upgrades, Kitsap Transit is removing a portion of the existing pier, installing a longer gangway, removing the existing float and installing a larger float in deeper water. This work requires removing existing decking with a concrete saw, removing 10 existing piles, and installing 12 new piles. The concrete saw would not cause in-air harassment as no pinnipeds haulout in the immediate vicinity of the dock; therefore, this activity is not discussed further.

Piles would be removed with a vibratory hammer. Piles would be installed using a vibratory hammer to refusal and then ''proofed'' with an impact hammer, if necessary. During impact hammering, Kitsap Transit would use a bubble curtain to reduce underwater sound pressure levels. The exact type and design of bubble curtain is not known.

Kitsap Transit estimates up to four piles could be removed per day and up to two piles would be installed per day. However, to account for unexpected issues, Kitsap Transit recognizes only two piles may be removed and one pile may be installed per day. Pile removal and installation would not occur on the same day. Therefore, the maximum amount of time spent removing 10 piles would be 5 days while the maximum amount of time installing 12 piles would be 12 days for a total of 17 days. The types of piles included in the project and schedule, are included in Table 1.

TABLE 1—DESCRIPTION OF PILES TO BE INSTALLED AND REMOVED DURING THE ANNAPOLIS FERRY DOCK PROJECT

Pile size	Method	Number of piles	Number of days (maximum)
Pile Removal			
16.5-in concrete	Vibratory	4	5
18-in steel	Vibratory	6	

TABLE 1—DESCRIPTION OF PILES TO BE INSTALLED AND REMOVED DURING THE ANNAPOLIS FERRY DOCK PROJECT—Continued

Pile size	Method	Number of piles	Number of days (maximum)
Pile Installation			
12-in steel	Vibratory Impact.	4	12
24-in steel	Vibratory Impact.	8	

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

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SAR; *www.nmfs.noaa.gov/pr/sars/*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 2 lists all species with expected potential for occurrence in Puget Sound and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2016). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS's stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. All managed stocks in the specified geographical regions are assessed in either NMFS's U.S. Alaska SARs or U.S. Pacific SARs.

Seven species (comprising eight managed stocks) are considered to have the potential to co-occur with Kitsap Transit's proposed project. While there are several other species or stocks that occur in Washington inland waters, many are not expected to occur in the vicinity of the Annapolis Ferry Terminal due to its position within the Puget Sound. These species, such as Dall's porpoise (*Phocoenoides dalli dalli*) and Northern elephant seals (*Mirounga angustirostris*) occur in more northerly waters of Puget Sound and in the vicinity of the San Juan Islands but have not been observed within the project area. Therefore, they are not discussed further. The sea otter (*Enhydra lutris kenyoni*) is also found in Puget Sound; however, sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

All values presented in Table 2 are the most recent available at the time of writing and are available in the draft 2017 SARs (available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 2—MARINE MAMMAL POTENTIALLY PRESENT IN THE VICINITY OF THE ANNAPOLIS FERRY TERMINAL DURING CONSTRUCTION

Common name	Scientific name	Stock	ESA/MMPA status; Strategic (Y/N)[1]	Stock abundance (CV, N_{min}, most recent abundance survey)[2]	PBR	Annual M/SI[3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae:						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-; N	20,990 (0.05; 20,125; 2011).	624	132
Family Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae kuzira*	California/Oregon/Washington (CA/OR/WA).	E/D; Y	1,918 (0.03; 1,876; 2014)	[7] 11	≥9.2
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae:						
Killer whale	*Orcinus orca*[4]	West Coast Transient[5]	-; N	243 (n/a; 2009)	2.4	0
		Eastern North Pacific Southern Resident.	E/D; Y	83 (n/a; 2016)	0.14	0
Family Phocoenidae (porpoises):						

TABLE 2—MARINE MAMMAL POTENTIALLY PRESENT IN THE VICINITY OF THE ANNAPOLIS FERRY TERMINAL DURING CONSTRUCTION—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; Strategic (Y/N)[1]	Stock abundance (CV, N_{min}, most recent abundance survey)[2]	PBR	Annual M/SI[3]
Harbor porpoise	*Phocoena phocoena vomerina*	Washington Inland Waters	-; N	11,233 (0.37; 8,308; 2015).	66	≥7.2
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions):						
California sea lion	*Zalophus californianus*	United States	-; N	296,750 (n/a; 153,337; 2011).	9,200	389
Steller sea lion	*Eumetopias jubatus monteriensis.*	Eastern U.S.	D; Y	41,638 (n/a; 2015)	2,498	108
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina richardii*	Southern Puget Sound[6]	-; N	1,568 (0.15; 1,025; 1999)	Undet.	3.4

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

[2] NMFS marine mammal stock assessment reports at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For two stocks of killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species' (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the draft 2017 SARs.

[4] Transient and resident killer whales are considered unnamed subspecies (Committee on Taxonomy, 2017).

[5] The abundance estimate for this stock includes only animals from the ''inner coast'' population occurring in inside waters of southeastern Alaska, British Columbia, and Washington—excluding animals from the ''outer coast'' subpopulation, including animals from California—and therefore should be considered a minimum count. For comparison, the previous abundance estimate for this stock, including counts of animals from California that are now considered outdated, was 354.

[6] Abundance estimates for the Southern Puget Sound harbor seal stock is not considered current. PBR is therefore considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

[7] This stock is known to spend a portion of time outside the U.S. EEZ. Therefore, the PBR presented here is the allocation for U.S. waters only and is a portion of the total. The total PBR for humpback whales is 22 (one half allocation for U.S. waters). Annual M/SI presented for these species is for U.S. waters only.

All species that could potentially occur in the proposed project area are included in Table 2. As described below, all seven species could temporally and spatially co-occur with the activity; however, Kitsap Transit has proposed mitigation measures which eliminate the potential take of three of these species (gray whales, humpback whales, and killer whales). Therefore, Kitsap Transit has requested, and we are proposing to authorize, take of four marine mammal species: harbor seal, California sea lion, Steller sea lion, and harbor porpoise.

Gray Whale

Gray whales are observed in Washington inland waters in all months of the year, with peak numbers from March through June (Calambokidis *et al.,* 2010). Most whales sighted are part of a small regularly occurring group of 6 to 10 whales that use mudflats in the Whidbey Island and Camano Island area as a springtime feeding area (Calambokidis *et al.,* 2010). Observed feeding areas are located in Saratoga Passage between Whidbey and Camano Islands including Crescent Harbor, and in Port Susan Bay located between Camano Island and the mainland north of Everett. Gray whales that are not identified with the regularly occurring feeding group are occasionally sighted in Puget Sound. These whales are not associated with feeding areas and are often emaciated (WDFW, 2012). There are typically from 2 to 10 stranded gray whales per year in Washington (Cascadia Research, 2012).

In Sinclair Inlet and the surrounding waterways (Rich Passage, Dyes Inlet, and Agate Passage), 11 opportunistic sightings of gray whales were reported to the Orca Network (a public marine mammal sightings database) between 2003 and 2012. One stranding occurred at NBK Bremerton in 2013. Gray whales have been sighted in Hood Canal south of the Hood Canal Bridge on six occasions since 1999, including a stranded whale. The most recent report was in 2010.

Humpback Whale

Prior to 2016, humpback whales were listed under the ESA as an endangered species worldwide. Following a 2015 global status review (Bettridge *et al.,* 2015), NMFS established 14 distinct population segments (DPS) with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The DPSs that occur in U.S. waters do not necessarily equate to the existing stocks designated under the MMPA and shown in Table 2. Because MMPA stocks cannot be portioned, *i.e.,* parts managed as ESA-listed while other parts managed as not ESA-listed, until such time as the MMPA stock delineations are reviewed in light of the DPS designations, NMFS considers the existing humpback whale stocks under the MMPA to be endangered and depleted for MMPA management purposes (*e.g.,* selection of a recovery factor, stock status).

Within U.S. west coast waters, three current DPSs may occur: The Hawaii DPS (not listed), Mexico DPS (threatened), and Central America DPS (endangered). According to Wade *et al.* (2016), the probability that whales encountered in Washington waters are from a given DPS are as follows: Hawaii, 52.9 percent (CV = 0.15); Mexico, 41.9 percent (0.14); Central America, 5.2 percent (0.91).

Most humpback whale sightings reported since 2003 were in the main basin of Puget Sound with numerous sightings in the waters between Point No Point and Whidbey Island, Possession Sound, and southern Puget Sound in the vicinity of Point Defiance. A few sightings of possible humpback whales were reported by Orca Network

in the waters near Navy Base Kitsap (NBK) Bremerton (located across Sinclair Inlet from the Annapolis Ferry Terminal) and Keyport (Rich Passage to Agate Passage area including Sinclair and Dyes Inlet) between 2003 and 2015. Humpback whales were also observed in the vicinity of Manette Bridge in Bremerton in 2016 and 2017, and a carcass was found under a dock at NBK Bremerton in 2016 (Cascadia Research, 2016). In Hood Canal, single humpback whales were observed for several weeks in 2012 and 2015. One sighting was reported in 2016. Review of the 2012 sightings information indicated they were of one individual. Prior to the 2012 sightings, there were no confirmed reports of humpback whales entering Hood Canal.

Harbor Seal

Harbor seals in Washington inland waters have been divided into three stocks: Hood Canal, Northern Inland Waters, and Southern Puget Sound. Animals belonging to the latter stock are ones most likely to occur in the action area during pile driving. Harbor seals are the most common pinniped found in the action area and are present year-round. They haul out on rocks, reefs, beaches, and drifting glacial ice and feed in marine, estuarine, and occasionally fresh waters. Harbor seals generally are non-migratory, with local movements associated with such factors as tides, weather, season, food availability, and reproduction (as reviewed in Carretta *et al.,* 2014). Harbor seals have also displayed strong fidelity for haulout sites.

There are no documented harbor seal haul-out within the immediate vicinity of the ferry terminal and much of the shoreline around the terminal has been armored with sheet-piling, preventing seals from hauling out. The nearest harbor seal haul-out is located in Dyes Inlet with less than 100 estimated individuals, approximately nine nautical miles from the site (Jefferies *et al.,* 2000).

California Sea Lions

California sea lions are typically present most of the year except for mid-June through July in Washington inland waters, with peak abundance numbers between October and May (NMFS, 1997; Jeffries *et al.,* 2000). During summer months and associated breeding periods, the inland waters are not be considered a high-use area by California sea lions, as they are returning to rookeries in California waters.

California sea lions have been documented during shore- and boat-based surveys at NBK Bremerton since 2010, with as many as 315 individuals hauled out at one time (November 2015) on port security barrier floats. On average, 69 sea lions have been observed daily.

Stellar Sea Lion

Steller sea lions are not frequently observed near the action area. Shore-based surveys at NBK Bremerton (directly across Sinclar Inlet from the Annapolis Ferry Terminal) have not detected Steller sea lions since the surveys were initiated in 2010. However, a single Steller sea lion was sighted on the floating security barrier in 2012 and aerial surveys conducted by the Washington Department of Fish and Wildlife (WDFW) in 2013 noted Steller sea lion presence in the action area. WDFW identifies two Steller sea lion haulouts near the Annapolis Ferry Terminal: (1) Navigation buoys and net pen floats in Clam Bay and (2) NBK Bremerton port security barrier (Wiles, 2015). No pupping or breeding areas are present in the project area.

Killer Whale (Transient)

Groups of transient killer whales were observed for lengthy periods in Hood Canal in 2003 (59 days) and 2005 (172 days) (London, 2006), but were not observed again until 2016, when they were seen on a handful of days between March and May (including in Dabob Bay). Transient killer whales have been seen infrequently near NBK Bremerton, including in Dyes Inlet and Sinclair Inlet (*e.g.,* sightings in 2010, 2013, and 2015). Sightings in the vicinity of NBK Keyport have also been infrequent, and no records were found for Rich Passage in the vicinity of NBK Manchester. Transient killer whales have been observed in Possession Sound near NS Everett.

West Coast transient killer whales most often travel in small pods averaging four individuals (Baird and Dill, 1996); however, the most commonly observed group size in Puget Sound (waters east of Admiralty Inlet, including Hood Canal, through South Puget Sound and north to Skagit Bay) from 2004 to 2010 was 6 whales (Houghton *et al.,* 2015).

Killer Whales (Resident)

Critical habitat for southern resident killer whales, designated pursuant to the ESA, includes three specific areas: (1) Summer core area in Haro Strait and waters around the San Juan Islands; (2) Puget Sound; and (3) Strait of Juan de Fuca (71 FR 69054; November 29, 2006). The primary constituent elements essential for conservation of the habitat are: (1) Water quality to support growth and development; (2) Prey species of sufficient quantity, quality, and availability to support individual growth, reproduction, and development, as well as overall population growth; and (3) Passage conditions to allow for migration, resting, and foraging. However, the six naval installations are specifically excluded from the critical habitat designation. A revision to the critical habitat designation is currently under consideration (80 FR 9682; February 24, 2015).

Southern resident killer whales are expected to occur occasionally in the waters surrounding all of the installations except those in Hood Canal, where they have not been reported since 1995 (NMFS, 2006). Southern resident killer whales are rare near NBK Bremerton and Keyport, with the last confirmed sighting in Dyes Inlet in 1997. Southern residents have been observed in Saratoga Passage and Possession Sound near NS Everett.

The stock contains three pods (J, K, and L pods), with pod sizes ranging from approximately 20 (in J pod) to 40 (in L pod) individuals. Group sizes encountered can be smaller or larger if pods temporarily separate or join together. Therefore, some exposure to groups of up to 20 individuals or more could occur over the 5-year duration.

Harbor Porpoise

Harbor porpoises, once very common in Puget Sound, are recovering from a virtual disappearance in the 1970s (Jefferson *et al.,* 2016). Recent opportunistic sightings, strandings, and fisheries bycatches indicate that harbor porpoises have reoccupied much or all of Puget Sound in significant numbers since the 2002–2003. Jefferson *et al.* (2016) conducted aerial surveys throughout Puget Sound from 2013 to 2015 and developed harbor porpoise density estimates for eight stratums. When pooling all seasons, the density of harbor porpoise in southern Puget Sound for the entire year is 0.89 animals/km^2 (see Table 3 in Jefferson *et al.,* 2016).

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008).

To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2016) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. The functional groups and the associated frequencies are indicated below (note that these frequency ranges correspond to the range for the composite group, with the entire range not necessarily reflecting the capabilities of every species within that group):

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

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

For more detail concerning these groups and associated frequency ranges, please see NMFS (2016) for a review of available information. Seven marine mammal species (four cetacean and three pinniped (two otariid and one phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 2. Of the cetacean species that may be present, two are classified as low-frequency cetaceans (*i.e.,* all mysticete species), one is classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and one is classified as high-frequency cetaceans (*i.e.,* harbor porpoise and Kogia spp.).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The ''Estimated Take by Incidental Harassment'' section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis and Determination'' section considers the content of this section, the ''Estimated Take by Incidental Harassment'' section, and the ''Proposed Mitigation'' section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Description of Sound Sources

This section contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to a discussion of the potential effects of the specified activity on marine mammals found later in this document. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in Hz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the dB. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude; therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 meter (m) from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa^2-s) represents the total energy in a stated frequency band over a stated time interval or event, and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source, and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions

(omnidirectional sources), as is the case for sound produced by the pile driving activity considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 Hz and 50 kHz (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals.

Underwater ambient sound in Puget Sound is comprised of sounds produced by a number of natural and anthropogenic sources and varies both geographically and temporally. Human-generated sound is a significant contributor to the ambient acoustic environment at the installations considered here. The underwater acoustic environment at the Annapolis Ferry Terminal is dependent upon the presence of ferries, other vessel traffic, and construction work occurring at nearby NBK Bremerton and the Manette Bridge. If ferries are approaching or docking, ambient sound levels would be higher than in absence of vessels.

Sounds are often considered to fall into one of two general types: pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features. Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment. The impulsive sound generated by impact hammers is characterized by rapid rise times and high peak levels. Vibratory hammers produce non-impulsive, continuous noise at levels lower than those produced by impact hammers. Further, rise time is not pronounced, reducing the probability and severity of injury, and sound energy is distributed over a greater amount of time (*e.g.,* Nedwell and Edwards, 2002; Carlson *et al.,* 2005).

Acoustic Effects

We previously provided general background information on marine mammal hearing (see *Description of Marine Mammals in the Area of the Specified Activity*). Here, we discuss the potential effects of sound on marine mammals.

Potential Effects of Underwater Sound—Note that, in the following discussion, we refer in many cases to a review article concerning studies of noise-induced hearing loss conducted from 1996–2015 (*i.e.,* Finneran, 2015). For study-specific citations, please see that work. Anthropogenic sounds cover a broad range of frequencies and sound levels and can have a range of highly variable impacts on marine life, from none or minor to potentially severe responses, depending on received levels, duration of exposure, behavioral context, and various other factors. The potential effects of underwater sound from active acoustic sources can potentially result in one or more of the following: temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Götz *et al.,* 2009). The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the sound exposure. In general, sudden, high level sounds can cause hearing loss, as can longer exposures to lower level sounds. Temporary or permanent loss of hearing will occur almost exclusively for noise within an animal's

hearing range. Below, we describe specific manifestations of acoustic effects before providing discussion specific to pile driving.

Richardson *et al.* (1995) described zones of increasing intensity of effect that might be expected to occur, in relation to distance from a source and assuming that the signal is within an animal's hearing range. First is the area within which the acoustic signal would be audible (potentially perceived) to the animal but not strong enough to elicit any overt behavioral or physiological response. The next zone corresponds with the area where the signal is audible to the animal and of sufficient intensity to elicit behavioral or physiological responsiveness. Third is a zone within which, for signals of high intensity, the received level is sufficient to potentially cause discomfort or tissue damage to auditory or other systems. Overlaying these zones to a certain extent is the area within which masking (*i.e.,* when a sound interferes with or masks the ability of an animal to detect a signal of interest that is above the absolute hearing threshold) may occur; the masking zone may be highly variable in size.

We describe the more severe effects (*i.e.,* certain non-auditory physical or physiological effects) only briefly as we do not expect that there is a reasonable likelihood that pile driving may result in such effects (see below for further discussion). Potential effects from impulsive sound sources can range in severity from effects such as behavioral disturbance or tactile perception to physical discomfort, slight injury of the internal organs and the auditory system, or mortality (Yelverton *et al.,* 1973). Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to high level underwater sound or as a secondary effect of extreme behavioral reactions (*e.g.,* change in dive profile as a result of an avoidance reaction) caused by exposure to sound include neurological effects, bubble formation, resonance effects, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007; Zimmer and Tyack, 2007; Tal *et al.,* 2015). The construction activities considered here do not involve the use of devices such as explosives or mid-frequency tactical sonar that are associated with these types of effects.

NMFS defines threshold shift (TS) as ''a change, usually an increase, in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS, 2016). Threshold shift can be permanent (PTS) or temporary (TTS). As described in NMFS (2016), there are numerous factors to consider when examining the consequence of TS, including, but not limited to, the signal temporal pattern (*e.g.,* impulsive or non-impulsive), likelihood an individual would be exposed for a long enough duration or to a high enough level to induce a TS, the magnitude of the TS, time to recovery (seconds to minutes or hours to days), the frequency range of the exposure (*i.e.,* spectral content), the hearing and vocalization frequency range of the exposed species relative to the signal's frequency spectrum (*i.e.,* how animal uses sound within the frequency band of the signal; *e.g.,* Kastelein et al. 2014b), and their overlap (*e.g.,* spatial, temporal, and spectral).

Permanent Threshold Shift

NMFS defines PTS as ''a permanent, irreversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS, 2016). It is the permanent elevation in hearing threshold resulting from irreparable damage to structures of the inner ear (*e.g.,* sensory hair cells, cochlea) or central auditory system (ANSI, 1995; Ketten 2000). Available data from humans and other terrestrial mammals indicate that a measured 40 dB threshold shift approximates PTS onset (*e.g.,* Kryter *et al.* 1966; Miller 1974; Henderson *et al.* 2008). Unlike TTS, NMFS considers PTS auditory injury and therefore constitutes Level A harassment, as defined in the MMPA.

With the exception of a single study unintentionally inducing PTS in a harbor seal (Kastak *et al.*, 2008), there are no empirical data measuring PTS in marine mammals largely due to the fact that, for various ethical reasons, experiments involving anthropogenic noise exposure at levels inducing PTS are not typically pursued or authorized (NMFS, 2016).

Temporary Threshold Shift

NMFS defines TTS as ''a temporary, reversible increase in the threshold of audibility at a specified frequency or portion of an individual's hearing range above a previously established reference level'' (NMFS, 2016). A TTS of 6 dB is considered the minimum threshold shift clearly larger than any day-to-day or session-to-session variation in a subject's normal hearing ability (Finneran *et al.,* 2000; Finneran *et al.*, 2002, as reviewed in Southall *et al.,* 2007 for a review)). TTS can last from minutes or hours to days (*i.e.,* there is recovery), occur in specific frequency ranges (*i.e.,* an animal might only have a temporary loss of hearing sensitivity between the frequencies of 1 and 10 kHz)), and can be of varying amounts (for example, an animal's hearing sensitivity might be temporarily reduced by only 6 dB or reduced by 30 dB). 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 (similar to those discussed in auditory masking, below). 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 animal 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 time when communication is critical for successful mother/calf interactions could have more serious impacts. We note that reduced hearing sensitivity as a simple function of aging has been observed in marine mammals, as well as humans and other taxa (Southall *et al.,* 2007), so we can infer that strategies exist for coping with this condition to some degree, though likely not without cost.

Currently, TTS data only exist for four species of cetaceans (bottlenose dolphin (*Tursiops truncatus*), beluga whale (*Delphinapterus leucas*), harbor porpoise, and Yangtze finless porpoise (*Neophocoena asiaeorientalis*)) and three species of pinnipeds (northern elephant seal, harbor seal, and California sea lion) exposed to a limited number of sound sources (*i.e.,* mostly tones and octave-band noise) in laboratory settings (Finneran, 2015). TTS was not observed in trained spotted (*Phoca largha*) and ringed (*Pusa hispida*) seals exposed to impulsive noise at levels matching previous predictions of TTS onset (Reichmuth *et al.,* 2016). In general, harbor seals and harbor porpoises have a lower TTS onset than other measured pinniped or cetacean species (Finneran, 2015). Additionally, the existing marine mammal TTS data come from a limited number of individuals within these species. There are no data available on noise-induced hearing loss for mysticetes. For summaries of data on TTS in marine mammals or for further discussion of TTS onset thresholds, please see Southall *et al.* (2007), Finneran and Jenkins (2012), Finneran (2015), and NMFS (2016).

Behavioral Effects—Behavioral disturbance may include a variety of

effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors (*e.g.,* Richardson *et al.,* 1995; Wartzok *et al.,* 2003; Southall *et al.,* 2007; Weilgart, 2007; Archer *et al.,* 2010). Behavioral reactions can vary not only among individuals but also within an individual, depending on previous experience with a sound source, context, and numerous other factors (Ellison *et al.,* 2012), and can vary depending on characteristics associated with the sound source (*e.g.,* whether it is moving or stationary, number of sources, distance from the source). Please see Appendices B–C of Southall *et al.* (2007) for a review of studies involving marine mammal behavioral responses to sound.

Habituation can occur when an animal's response to a stimulus wanes with repeated exposure, usually in the absence of unpleasant associated events (Wartzok *et al.,* 2003). Animals are most likely to habituate to sounds that are predictable and unvarying. It is important to note that habituation is appropriately considered as a ''progressive reduction in response to stimuli that are perceived as neither aversive nor beneficial,'' rather than as, more generally, moderation in response to human disturbance (Bejder *et al.,* 2009). The opposite process is sensitization, when an unpleasant experience leads to subsequent responses, often in the form of avoidance, at a lower level of exposure. As noted, behavioral state may affect the type of response. For example, animals that are resting may show greater behavioral change in response to disturbing sound levels than animals that are highly motivated to remain in an area for feeding (Richardson *et al.,* 1995; NRC, 2003; Wartzok *et al.,* 2003). Controlled experiments with captive marine mammals have showed pronounced behavioral reactions, including avoidance of loud sound sources (Ridgway *et al.,* 1997; Finneran *et al.,* 2003). Observed responses of wild marine mammals to loud pulsed sound sources (typically airguns or acoustic harassment devices) have been varied but often consist of avoidance behavior or other behavioral changes suggesting discomfort (Morton and Symonds, 2002; see also Richardson *et al.,* 1995; Nowacek *et al.,* 2007). However, many delphinids approach low-frequency airgun source vessels with no apparent discomfort or obvious behavioral change (*e.g.,* Barkaszi *et al.,* 2012), indicating the importance of frequency output in relation to the species' hearing sensitivity.

Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal. If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007; NRC, 2005). However, there are broad categories of potential response, which we describe in greater detail here, that include alteration of dive behavior, alteration of foraging behavior, effects to breathing, interference with or alteration of vocalization, avoidance, and flight.

Changes in dive behavior can vary widely and may consist of increased or decreased dive times and surface intervals as well as changes in the rates of ascent and descent during a dive (*e.g.,* Frankel and Clark, 2000; Costa *et al.,* 2003; Ng and Leung, 2003; Nowacek *et al.,* 2004; Goldbogen *et al.,* 2013a, 2013b). Variations in dive behavior may reflect interruptions in biologically significant activities (*e.g.,* foraging) or they may be of little biological significance. The impact of an alteration to dive behavior resulting from an acoustic exposure depends on what the animal is doing at the time of the exposure and the type and magnitude of the response.

Disruption of feeding behavior can be difficult to correlate with anthropogenic sound exposure, so it is usually inferred by observed displacement from known foraging areas, the appearance of secondary indicators (*e.g.,* bubble nets or sediment plumes), or changes in dive behavior. As for other types of behavioral response, the frequency, duration, and temporal pattern of signal presentation, as well as differences in species sensitivity, are likely contributing factors to differences in response in any given circumstance (*e.g.,* Croll *et al.,* 2001; Nowacek *et al.,* 2004; Madsen *et al.,* 2006; Yazvenko *et al.,* 2007). A determination of whether foraging disruptions incur fitness consequences would require information on or estimates of the energetic requirements of the affected individuals and the relationship between prey availability, foraging effort and success, and the life history stage of the animal.

Variations in respiration naturally vary with different behaviors and alterations to breathing rate as a function of acoustic exposure can be expected to co-occur with other behavioral reactions, such as a flight response or an alteration in diving. However, respiration rates in and of themselves may be representative of annoyance or an acute stress response. Various studies have shown that respiration rates may either be unaffected or could increase, depending on the species and signal characteristics, again highlighting the importance in understanding species differences in the tolerance of underwater noise when determining the potential for impacts resulting from anthropogenic sound exposure (*e.g.,* Kastelein *et al.,* 2001, 2005, 2006; Gailey *et al.,* 2007; Gailey *et al.,* 2016).

Marine mammals vocalize for different purposes and across multiple modes, such as whistling, echolocation click production, calling, and singing. Changes in vocalization behavior in response to anthropogenic noise can occur for any of these modes and may result from a need to compete with an increase in background noise or may reflect increased vigilance or a startle response. For example, in the presence of potentially masking signals, humpback whales and killer whales have been observed to increase the length of their songs (Miller *et al.,* 2000; Fristrup *et al.,* 2003; Foote *et al.,* 2004), while right whales have been observed to shift the frequency content of their calls upward while reducing the rate of calling in areas of increased anthropogenic noise (Parks *et al.,* 2007). In some cases, animals may cease sound production during production of aversive signals (Bowles *et al.,* 1994).

Avoidance is the displacement of an individual from an area or migration path as a result of the presence of a sound or other stressors, and is one of the most obvious manifestations of disturbance in marine mammals (Richardson *et al.,* 1995). For example, gray whales are known to change direction—deflecting from customary migratory paths—in order to avoid noise from airgun surveys (Malme *et al.,*

1984). Avoidance may be short-term, with animals returning to the area once the noise has ceased (*e.g.,* Bowles *et al.,* 1994; Goold, 1996; Stone *et al.,* 2000; Morton and Symonds, 2002; Gailey *et al.,* 2007). Longer-term displacement is possible, however, which may lead to changes in abundance or distribution patterns of the affected species in the affected region if habituation to the presence of the sound does not occur (*e.g.,* Blackwell *et al.,* 2004; Bejder *et al.,* 2006; Teilmann *et al.,* 2006).

A flight response is a dramatic change in normal movement to a directed and rapid movement away from the perceived location of a sound source. The flight response differs from other avoidance responses in the intensity of the response (*e.g.,* directed movement, rate of travel). Relatively little information on flight responses of marine mammals to anthropogenic signals exist, although observations of flight responses to the presence of predators have occurred (Connor and Heithaus, 1996). The result of a flight response could range from brief, temporary exertion and displacement from the area where the signal provokes flight to, in extreme cases, marine mammal strandings (Evans and England, 2001). However, it should be noted that response to a perceived predator does not necessarily invoke flight (Ford and Reeves, 2008), and whether individuals are solitary or in groups may influence the response.

Behavioral disturbance can also impact marine mammals in more subtle ways. Increased vigilance may result in costs related to diversion of focus and attention (*i.e.,* when a response consists of increased vigilance, it may come at the cost of decreased attention to other critical behaviors such as foraging or resting). These effects have generally not been demonstrated for marine mammals, but studies involving fish and terrestrial animals have shown that increased vigilance may substantially reduce feeding rates (*e.g.,* Beauchamp and Livoreil). In addition, chronic disturbance can cause population declines through reduction of fitness (*e.g.,* decline in body condition) and subsequent reduction in reproductive success, survival, or both (*e.g.,* Harrington and Veitch, 1992; Daan *et al.,* 1996; Bradshaw *et al.,* 1998). However, Ridgway *et al.* (2006) reported that increased vigilance in bottlenose dolphins exposed to sound over a five-day period did not cause any sleep deprivation or stress effects.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (24-hour cycle). Disruption of such functions resulting from reactions to stressors such as sound exposure are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). Consequently, a behavioral response lasting less than one day and not recurring on subsequent days is not considered particularly severe unless it could directly affect reproduction or survival (Southall *et al.,* 2007). Note that there is a difference between multi-day substantive behavioral reactions and multi-day anthropogenic activities. For example, just because an activity lasts for multiple days does not necessarily mean that individual animals are either exposed to activity-related stressors for multiple days or, further, exposed in a manner resulting in sustained multi-day substantive behavioral responses.

Stress Responses—An animal's perception of a threat may be sufficient to trigger stress responses consisting of some combination of behavioral responses, autonomic nervous system responses, neuroendocrine responses, or immune responses (*e.g.,* Seyle, 1950; Moberg, 2000). In many cases, an animal's first and sometimes most economical (in terms of energetic costs) response is behavioral avoidance of the potential stressor. Autonomic nervous system responses to stress typically involve changes in heart rate, blood pressure, and gastrointestinal activity. These responses have a relatively short duration and may or may not have a significant long-term effect on an animal's fitness.

Neuroendocrine stress responses often involve the hypothalamus-pituitary-adrenal system. Virtually all neuroendocrine functions that are affected by stress—including immune competence, reproduction, metabolism, and behavior—are regulated by pituitary hormones. Stress-induced changes in the secretion of pituitary hormones have been implicated in failed reproduction, altered metabolism, reduced immune competence, and behavioral disturbance (*e.g.,* Moberg, 1987; Blecha, 2000). Increases in the circulation of glucocorticoids are also equated with stress (Romano *et al.,* 2004).

The primary distinction between stress (which is adaptive and does not normally place an animal at risk) and ''distress'' is the cost of the response. During a stress response, an animal uses glycogen stores that can be quickly replenished once the stress is alleviated. In such circumstances, the cost of the stress response would not pose serious fitness consequences. However, when an animal does not have sufficient energy reserves to satisfy the energetic costs of a stress response, energy resources must be diverted from other functions. This state of distress will last until the animal replenishes its energetic reserves sufficient to restore normal function.

Relationships between these physiological mechanisms, animal behavior, and the costs of stress responses are well-studied through controlled experiments and for both laboratory and free-ranging animals (*e.g.,* Holberton *et al.,* 1996; Hood *et al.,* 1998; Jessop *et al.,* 2003; Krausman *et al.,* 2004; Lankford *et al.,* 2005). Stress responses due to exposure to anthropogenic sounds or other stressors and their effects on marine mammals have also been reviewed (Fair and Becker, 2000; Romano *et al.,* 2002b) and, more rarely, studied in wild populations (*e.g.,* Romano *et al.,* 2002a). For example, Rolland *et al.* (2012) found that noise reduction from reduced ship traffic in the Bay of Fundy was associated with decreased stress in North Atlantic right whales. These and other studies lead to a reasonable expectation that some marine mammals will experience physiological stress responses upon exposure to acoustic stressors and that it is possible that some of these would be classified as ''distress.'' In addition, any animal experiencing TTS would likely also experience stress responses (NRC, 2003).

Auditory Masking—Sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation) (Richardson *et al.,* 1995; Erbe *et al.,* 2016). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin. The ability of a noise source to mask biologically important sounds depends on the characteristics of both the noise source and the signal of interest (*e.g.,* signal-to-noise ratio, temporal variability, direction), in relation to each other and to an animal's hearing abilities (*e.g.,* sensitivity, frequency range, critical ratios, frequency discrimination, directional discrimination, age or TTS hearing loss), and existing ambient noise and propagation conditions.

Under certain circumstances, marine mammals experiencing significant

masking could also be impaired from maximizing their performance fitness in survival and reproduction. Therefore, when the coincident (masking) sound is man-made, it may be considered harassment when disrupting or altering critical behaviors. It is important to distinguish TTS and PTS, which persist after the sound exposure, from masking, which occurs during the sound exposure. Because masking (without resulting in TS) is not associated with abnormal physiological function, it is not considered a physiological effect, but rather a potential behavioral effect.

The frequency range of the potentially masking sound is important in determining any potential behavioral impacts. For example, low-frequency signals may have less effect on high-frequency echolocation sounds produced by odontocetes but are more likely to affect detection of mysticete communication calls and other potentially important natural sounds such as those produced by surf and some prey species. The masking of communication signals by anthropogenic noise may be considered as a reduction in the communication space of animals (*e.g.,* Clark *et al.,* 2009) and may result in energetic or other costs as animals change their vocalization behavior (*e.g.,* Miller *et al.,* 2000; Foote *et al.,* 2004; Parks *et al.,* 2007; Di Iorio and Clark, 2009; Holt *et al.,* 2009). Masking can be reduced in situations where the signal and noise come from different directions (Richardson *et al.,* 1995), through amplitude modulation of the signal, or through other compensatory behaviors (Houser and Moore, 2014). Masking can be tested directly in captive species (*e.g.,* Erbe, 2008), but in wild populations it must be either modeled or inferred from evidence of masking compensation. There are few studies addressing real-world masking sounds likely to be experienced by marine mammals in the wild (*e.g.,* Branstetter *et al.,* 2013).

Masking affects both senders and receivers of acoustic signals and can potentially have long-term chronic effects on marine mammals at the population level as well as at the individual level. Low-frequency ambient sound levels have increased by as much as 20 dB (more than three times in terms of SPL) in the world's ocean from pre-industrial periods, with most of the increase from distant commercial shipping (Hildebrand, 2009). All anthropogenic sound sources, but especially chronic and lower-frequency signals (*e.g.,* from vessel traffic), contribute to elevated ambient sound levels, thus intensifying masking.

Potential Effects of the Activity—As described previously (see ''Description of Active Acoustic Sound Sources''), the Navy proposes to conduct pile driving, including impact and vibratory driving. The effects of pile driving on marine mammals are dependent on several factors, including the size, type, and depth of the animal; the depth, intensity, and duration of the pile driving sound; the depth of the water column; the substrate of the habitat; the standoff distance between the pile and the animal; and the sound propagation properties of the environment. With both types of pile driving, it is likely that the onset of pile driving could result in temporary, short term changes in an animal's typical behavioral patterns and/or avoidance of the affected area.

These behavioral changes may include changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where sound sources are located; and/or flight responses (Richardson *et al.,* 1995).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, or reproduction. Significant behavioral modifications that could lead to effects on growth, survival, or reproduction, such as drastic changes in diving/surfacing patterns or significant habitat abandonment are extremely unlikely in this area (*i.e.,* shallow waters in modified industrial areas).

The onset of behavioral disturbance from anthropogenic sound depends on both external factors (characteristics of sound sources and their paths) and the specific characteristics of the receiving animals (hearing, motivation, experience, demography) and is difficult to predict (Southall *et al.,* 2007).

Whether impact or vibratory driving, sound sources would be active for relatively short durations, with relation to potential for masking. The frequencies output by pile driving activity are lower than those used by most species expected to be regularly present for communication or foraging. We expect insignificant impacts from masking, and any masking event that could possibly rise to Level B harassment under the MMPA would occur concurrently within the zones of behavioral harassment already estimated for vibratory and impact pile driving, and which have already been taken into account in the exposure analysis.

Anticipated Effects on Marine Mammal Habitat

The proposed activities would not result in permanent impacts to habitats used directly by marine mammals, but may have potential short-term impacts to food sources such as forage fish. The proposed activities could also affect acoustic habitat (see masking discussion above), but meaningful impacts are unlikely. There are no known foraging hotspots, or other ocean bottom structures of significant biological importance to marine mammals present in the marine waters in the vicinity of the project areas. Therefore, the main impact issue associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this preamble. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (*i.e.,* fish) near the six installations. Impacts to the immediate substrate during installation and removal of piles are anticipated, but these would be limited to minor, temporary suspension of sediments, which could impact water quality and visibility for a short amount of time, but which would not be expected to have any effects on individual marine mammals. Impacts to substrate are therefore not discussed further.

Effects to Prey—Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton). Marine mammal prey varies by species, season, and location and, for some, is not well documented. Here, we describe studies regarding the effects of noise on known marine mammal prey.

Fish utilize the soundscape and components of sound in their environment to perform important functions such as foraging, predator avoidance, mating, and spawning (*e.g.,* Zelick *et al.,* 1999; Fay, 2009). Depending on their hearing anatomy and peripheral sensory structures, which vary among species, fishes hear sounds using pressure and particle motion sensitivity capabilities and detect the motion of surrounding water (Fay *et al.,* 2008). The potential effects of noise on fishes depends on the overlapping frequency range, distance

from the sound source, water depth of exposure, and species-specific hearing sensitivity, anatomy, and physiology. Key impacts to fishes may include behavioral responses, hearing damage, barotrauma (pressure-related injuries), and mortality.

Fish react to sounds which are especially strong and/or intermittent low-frequency sounds, and behavioral responses such as flight or avoidance are the most likely effects. Short duration, sharp sounds can cause overt or subtle changes in fish behavior and local distribution. The reaction of fish to noise depends on the physiological state of the fish, past exposures, motivation (*e.g.,* feeding, spawning, migration), and other environmental factors. Hastings and Popper (2005) identified several studies that suggest fish may relocate to avoid certain areas of sound energy. Additional studies have documented effects of pile driving on fish, although several are based on studies in support of large, multiyear bridge construction projects (*e.g.,* Scholik and Yan, 2001, 2002; Popper and Hastings, 2009). Several studies have demonstrated that impulse sounds might affect the distribution and behavior of some fishes, potentially impacting foraging opportunities or increasing energetic costs (*e.g.,* Fewtrell and McCauley, 2012; Pearson *et al.,* 1992; Skalski *et al.,* 1992; Santulli *et al.,* 1999; Paxton *et al.,* 2017). However, some studies have shown no or slight reaction to impulse sounds (*e.g.,* Pena *et al.,* 2013; Wardle *et al.,* 2001; Jorgenson and Gyselman, 2009; Cott *et al.,* 2012). More commonly, though, the impacts of noise on fish are temporary.

SPLs of sufficient strength have been known to cause injury to fish and fish mortality. However, in most fish species, hair cells in the ear continuously regenerate and loss of auditory function likely is restored when damaged cells are replaced with new cells. Halvorsen *et al.* (2012a) showed that a TTS of 4 to 6 dB was recoverable within 24 hours for one species. Impacts would be most severe when the individual fish is close to the source and when the duration of exposure is long. Injury caused by barotrauma can range from slight to severe and can cause death, and is most likely for fish with swim bladders. Barotrauma injuries have been documented during controlled exposure to impact pile driving (Halvorsen *et al.,* 2012b; Casper *et al.,* 2013).

The most likely impact to fish from pile driving activities at the project areas would be temporary behavioral avoidance of the area. The duration of fish avoidance of an area after pile driving stops is unknown, but a rapid return to normal recruitment, distribution and behavior is anticipated. In general, impacts to marine mammal prey species are expected to be minor and temporary due to the expected short daily duration of individual pile driving events and the relatively small areas being affected. It is also not expected that the industrial environment around the terminal and nearby Naval installation provides important fish habitat or harbors significant amounts of forage fish.

The area likely impacted by the activities is relatively small compared to the available habitat in inland waters in the region. Any behavioral avoidance by fish of the disturbed area would still leave significantly large areas of fish and marine mammal foraging habitat in the nearby vicinity. As described in the preceding, the potential for Navy construction to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant. Effects to habitat will not be discussed further in this document.

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, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to pile driving. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutdown measures—discussed in detail below in Proposed Mitigation section), Level A harassment is neither anticipated nor proposed to be authorized.

As described previously, no mortality is anticipated or proposed to be authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the 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. For in-air sounds, NMFS predicts that phocids and otariids exposed above received levels of 90 dB and 100 dB re 20 μPa (rms), respectively, may be behaviorally harassed.

Kitsap Transit's project includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120

and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Technical Guidance, 2016) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Kitsap Transit's proposed activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in Table 3. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	*Cell 2:* $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	*Cell 4:* $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	*Cell 6:* $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	*Cell 8:* $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	*Cell 10:* $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1 $\mu Pa^2 s$. 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 duration, 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.

Sound Propagation—Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \log_{10}(R_1/R_2),$$

Where:

B = transmission loss coefficient (assumed to be 15)

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement.

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log(range)). As is common practice in coastal waters, here we assume practical spreading loss (4.5 dB reduction in sound level for each doubling of distance). Practical spreading is a compromise that is often used under conditions where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions.

Sound Source Levels—The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity takes place. There are source level measurements available for certain pile types and sizes from the specific environment of several of the installations considered here (*i.e.,* NBK Bangor and NBK Bremerton), but not from all. Numerous studies have examined sound pressure levels (SPLs) recorded from underwater pile driving projects in California (*e.g.,* Caltrans, 2015) and elsewhere in Washington. In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from pile driving at the six installations, studies with similar properties to the specified activity were evaluated.

No direct pile driving measurements at the Annapolis Ferry Dock are available. Therefore, Kitsap Transit reviewed available values from multiple nearshore marine projects obtained from the California Department of Transportation (Caltrans) using similar type of piles (*e.g.,* size and material) and water depth (Caltrans, 2015). NMFS also evaluated the proposed source levels with respected to pile driving measurements made by the Washington Department of Transportation (WSDOT) at other ferry terminals in Puget Sound as well as measurements collected by the Navy in Puget Sound.

TABLE 4—ESTIMATED PILE DRIVING SOURCE LEVELS

Method	Pile size (inches)	Sound pressure (dB re: 1 μPa)		
		SPL [1] (peak)	SPL (rms) [1]	SEL [1]
Impact	12	192	177	167
	24	207	194	178
Vibratory	12	171	155	155
	24	178	165	165
Vibratory Removal	16.5–18	175	160	160

[1] Source levels presented at standard distance of 10 m from the driven pile. Peak source levels are not typically evaluated for vibratory pile driving, as vibratory driving does not present rapid rise times. SEL source levels for vibratory driving are equivalent to SPL (rms) source levels.

The source levels presented in Table 4 are those proposed by Kitsap Transit and correspond with those found in Caltrans (2015). However, because NMFS recently proposed regulations for the U.S. Navy at multiple sites throughout Puget Sound, including NBK Bremerton located across Sinclair Inlet, NMFS also evaluated source levels used in that proposed rule. The source level provided in the Navy's proposed rule (83 FR 9366; March 5, 2018) for impact pile driving 24-in steel piles is slightly higher than that being used for this proposed IHA. Kitsap Transit proposed a source level of 178 dB SEL for impact pile driving 24-in steel piles in their application while the Navy proposed (and NMFS included in the proposed rule) a source level of 181 dB SEL. However, we accept Kitsap Transit's proposed source levels for two reasons. First, the Navy excluded three projects for which data from 24-in pile driving was available due to a low number of pile strikes and because these projects produced lower SEL values than the two projects considered in the proposed rule. Overall, the mean SEL per any one pile for the two projects considered by the Navy (Bainbridge Island and Friday Harbor) ranged from 176 to 185 dB; however, the three projects not considered (Bangor Test Pile Program, Conoco-Phillips dock, and Deep Water-Tongue Point Facility Pier Repairs) produced SELs ranging from 168 to 177 dB SEL. Second, we accept Kitsap Transit's proposed source levels because they would employ bubble curtains during all impact pile driving which is known to reduce noise levels but we are not accounting for that attenuation in this proposed IHA. Kitsap Transit's proposed source levels for impact pile driving 12-in steel piles and all vibratory pile driving and pile removal correspond to or are slightly greater than those in Caltrans (2015) and the Navy's proposed rule; therefore, we apply them here.

When NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as pile driving, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. A description of inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

Kitsap Transit estimates it will take a maximum of six hours, per day, to install or remove piles using a vibratory hammer (up to four piles per day). For steel piles that are ''proofed,'' Kitsap Transit estimated approximately 1,000 hammer strikes per pile would be required with two piles installed per day. If piles can be installed completely with the vibratory hammer, Kitsap Transit would not use an impact hammer; however, it is included here as a possibility. A practical spreading model (15logR) was used for all calculation. NMFS considered these inputs when using the NMFS user spreadsheet (Table 5).

TABLE 5—NMFS USER SPREADSHEET INPUTS

Input parameter	Vibratory pile driving	Impact pile driving
Weighting Factor Adjustment [1]	2.5 kHz	2 kHz.
Source Level (SL)	See Table 4 (rms values)	See Table 4 (SEL values).
Duration	6 hours	n/a.
Strikes per pile	n/a	1,000.
Piles per day	n/a	2.
Transmission loss coefficient	15	15.
Distance from SL measurement	10 m	10 m.

[1] For those applicants who cannot fully apply auditory weighting functions associated with the SEL_{cum} metric, NMFS has recommended the default, single frequency weighting factor adjustments (WFAs) provided here. As described in Appendix D of NMFS' Technical Guidance (NMFS, 2016), the intent of the WFA is to broadly account for auditory weighting functions below the 95 frequency contour percentile. Use of single frequency WFA is likely to over-predict Level A harassment distances.

As described above, the Level B harassment threshold for impulsive noise (*e.g.,* impact pile driving) is 160 dB rms. The Level B harassment threshold for continuous noise (*e.g.,* vibratory pile driving) is 120 dB rms.

Distances corresponding to received levels reaching NMFS harassment thresholds are provided in Table 6.

These distances represent the distance at which an animal would have to remain for the entire duration considered (*i.e.,* 6 hours of vibratory pile driving, 2,000 hammer strikes) for the potential onset of PTS to occur. These results do not consider the time it takes to re-set between piles; therefore, it is highly unlikely any species would remain at these distances for the entire duration of pile driving within a day. As a result, these distances represent the calculated outputs of the User Spreadsheet but, in reality, do not reflect a likely scenario for the potential onset of Level A harassment. Regardless, Kitsap Transit has proposed to implement shut-down zones mirroring these calculated outputs to avoid Level A harassment. We have slightly modified them and believe these modifications woulwhile we have proposed simWe Table 6 have also provided the area ensonified to the Level B harassment threshold in Table 6; these areas have been truncated to account for land.

TABLE 6—DISTANCES TO LEVEL A AND B HARASSMENT THRESHOLDS AND AREA ENSONIFIED

Method	Pile size (inches)	Distance to Level A (meters)					Level B (meters)	Level B area (km^2)
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids		
Impact (install)	12	136	4.8	162.0	72.8	5.3	136	0.1
	24	735.8	26.2	876.4	393.8	28.7	1,848	5.5
Vibratory (install)	12	9.0	0.8	13.3	5.5	0.4	2,154	6.5
	24	41.7	3.7	61.6	25.3	1.8	10,000	19.2
Vibratory (removal)	16.5–18	19.3	1.7	28.6	11.8	0.8	4,612	14.3

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.

Available information regarding marine mammal occurrence in the vicinity of the Annapolis Ferry Terminal includes density information aggregated in the Navy's Marine Mammal Species Density Database (NMSDD; Navy, 2015) or site-specific survey information from particular installations (*e.g.,* local pinniped counts). More recent density estimates for harbor porpoise are available in Jefferson *et al.* (2016).

Specifically, a density-based analysis is used for the harbor porpoise, Dall's porpoise, and Steller sea lion, while data from site-specific abundance surveys is used for the California sea lion and harbor seal (Table 7).

TABLE 7—DENSITY OR PINNIPED COUNT DATA, BY SPECIES

Species	Density (animals/km^2)	Average daily pinniped count
Harbor seal	1.22	n/a
Steller sea lion	0.036	n/a
California sea lion	n/a	69
Harbor Porpoise	0.89	n/a

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate.

Kitsap Transit did not request, and we are not proposing, to authorize Level A take of any species. The User Spreadsheet does calculate distances at which Level A take could occur for all pile activity. The largest resulting distances are for the installation of 24-in piles. The calculated distance represents the distance at which an animal would have to remain while exposed to the installation of two piles (with time in between to reset the hammer to the next pile) at 1,000 strikes per pile. In addition, only eight 24-in piles are to be installed for the project. The harbor porpoise Level A harassment distance is 876 m; however, harbor porpoise are likely transiting through the area, if present at all. Harbor seals may remain in the area. Therefore, with the incorporation of the proposed mitigation measures, we do not believe there is a likely potential for Level A take for any species. Further, no take (either Level A or Level B) of humpback whales, gray whales, and killer whales was requested or is proposed to be authorized due to the short duration of the project (17 days), the small amount of piles installed (12) and removed (5), and the incorporation of the proposed mitigation and monitoring measures (see *Mitigation and Monitoring* sections).

The take calculation for harbor seal, Steller sea lion, and harbor porpoise exposures is derived using the following equation: *Level B exposure estimate = species density (see Table 7) × ensonified area (based on pile size) × number of pile driving days.* Because there would be 5 days of pile removal, four 12 in. piles installed over four days (maximum), and eight 24 in. piles installed over eight days (maximum), we summed each product together to produce a total take estimate. When impact and vibratory hammer use would occur on the same day, the larger Level B ensonifed zone for that day was used. For example, harbor seal exposures due to 12 inch pile driving are calculated as 1.22 animals/km^2 × 6.5 km^2 × 4 days = 32 exposures. Harbor seal exposures due to installing 24 in. piles is 1.22 animals/km^2 × 19.2 km^2 × 8 days = 187 exposures. Finally, harbor seal exposures due to pile removal is 1.22 animals/km^2 × 14.3 km^2 × 5 days = 87 exposures. Although we anticipate some seals may be exposed more than once, we consider each exposure to constitute a take. Therefore, total estimated take is 306 harbor seals. This process was repeated for Steller sea lions and harbor porpoise using their respective densities (see Table 7).

The calculation for California sea lion exposures is estimated by the following equation: *Level B Exposure estimate = N (estimated animals/day) × number of pile driving days.* Because density is not used for this species, we simply assumed 69 sea lions could be taken on any given day of pile driving. Therefore, 69 California sea lion/day × 17 days = 1,173 California sea lion takes.

The total estimated take for all species incidental to 17 days of pile driving is provided in Table 8.

TABLE 8—ESTIMATED TAKE, BY SPECIES AND STOCK, INCIDENTAL TO PILE DRIVING

Species	Stock	Total take (Level B)	Percent of stock
Harbor seal	Southern Puget Sound	306	19.5
Steller sea lion	Eastern DPS	10	0.01
California sea lion	U.S	1,173	0.4
Harbor Porpoise	Washington Inland Waters	224	2.0

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

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

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

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

Mitigation for Marine Mammals and Their Habitat

Kitsap Transit has proposed a number of mitigation measures designed to minimize the impacts of the project on marine mammals and their habitat. Below is a description of these measures which can also be found in the draft proposed IHA text provided at the end of this document.

For in-water heavy machinery work (*e.g.,* barges, tug boats), a minimum 10 m shutdown zone shall be implemented. If a marine mammal comes within 10 m of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

Kitsap Transit proposes to shut down pile driving if marine mammals for which they requested take enter the Level A harassment zones as calculated in Table 6. However, these distances represent a very long duration (6 hours for pile driving plus an unknown amount of time to re-set piles) during vibratory pile driving. Therefore, we have adjusted the shutdown zones to a more practicable level. We also incorporate the shutdown zones corresponding to Level B harassment for humpback whales, gray whales, and killer whales. Kitsap Transit shall implement shutdown zones as identified in Table 9 to avoid Level A take of seals, sea lions, and harbor porpoise as well as Level A and Level B take of humpback whales, gray whales, and killer whales. Kitsap Transit shall also implement a minimum shutdown zone of a 10 m radius around the pile.

TABLE 9—SHUTDOWN ZONES TO AVOID HEAVY EQUIPMENT INJURY, LEVEL A HARASSMENT, OR LEVEL B HARASSMENT

Species	Shutdown zones (m)				
	Impact 12″	Impact 24″	Vibratory 12″	Vibratory 24″	Vibratory removal
Humpback whale, Gray whale, Killer whale	136	1,848	2,154	10,000	4,612
Harbor porpoise	160	875	13	60	28
Harbor seal	73	390	[1] 10	25	11
Steller sea lion, California sea lion	[1] 10	29	[1] 10	[1] 10	[1] 10

[1] NMFS is proposing a minimum 10 m shutdown zone to avoid potential injury from equipment.

Pre-activity monitoring shall take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring shall continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (see Table 6) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the shutdown zone. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 minutes have passed without re-detection of the

animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

Kitsap Transit shall use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

If a species for which authorization has not been granted (including humpback whales, gray whales, and killer whales), or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B Isopleth (Table 6 and 9), pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or the observation time period has elapsed.

Kitsap Transit shall use a bubble curtain during all impact pile driving. We note the estimated source levels used to calculate Level A harassment zones did not consider any reduction in noise from use of this bubble curtain (*i.e.,* the Level A harassment isopleths consider unattenuated impact pile driving source levels).

Kitsap Transit shall access the Orca Network website each morning prior to in-water construction activities and if pile removal or installation ceases for more than two hours. If marine mammals for which take is not authorized (*e.g.,* killer whales, humpback whales, gray whales) are observed and on a path towards the Level B harassment zone, pile driving shall be delayed until animals are confirmed outside of and on a path away from the Level B harassment zone or if one hour passes with no subsequent sightings.

Kitsap Transit shall implement the use of best management practices (*e.g.,* erosion and sediment control, spill prevention and control) to minimize impacts to marine mammal habitat.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

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

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

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

For all pile driving activities, at least one protected species observer (PSOs) shall be stationed at the on-shore vantage point at the outer portion of the pier to be retained to monitor and implement shutdown or delay procedures, when applicable, through communication with the equipment operator.

If water conditions exceed a Beaufort level 2, or if visibility is limited by rain or fog, an additional on-shore observer will be positioned at the Bremerton Marina and/or a monitor will patrol the monitoring zone in a boat.

Monitoring of pile driving shall be conducted by qualified PSOs (see below), who shall have no other assigned tasks during monitoring periods. Kitsap Transit shall adhere to the following conditions when selecting observers:

- Independent, dedicated PSOs shall be used (*i.e.,* not construction personnel).
- At least one PSO must have prior experience working as a marine mammal observer during construction activities.
- Other PSOs may substitute education (degree in biological science or related field) or training for experience.
- Where a team of three or more PSOs are required, a lead observer or monitoring coordinator shall be designated. The lead observer must have prior experience working as a marine mammal observer during construction.
- The Kitsap Transit shall submit PSO CVs for approval by NMFS.

Kitsap Transit shall ensure that observers have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols.
- Experience or training in the field identification of marine mammals, including the identification of behaviors.
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior.
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Kitsap Transit would also be required to submit an annual report summarizing their monitoring efforts, number of animals taken, any implementation of mitigation measures (*e.g.,* shut downs)

and abide by reporting requirements contained within the draft IHA at the end of this document.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving activities associated with the Annapolis Ferry Terminal Project, as described previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only from underwater sounds generated from pile driving. Potential takes could occur if individual marine mammals are present in the ensonified zone when pile driving is happening. No serious injury or mortality would be expected even in the absence of the proposed mitigation measures. Further, while Level A harassment potential is calculated, it is based on long exposure durations (6 hours of vibratory pile driving and 2,000 pile strikes); therefore, the true Level A harassment distances, if any, are likely closer than those provided in Table 6. Further, the potential for injury is s is expected to be essentially eliminated through implementation of the planned mitigation measures—use of the bubble curtain for impact driving steel piles, soft start (for impact driving), and shutdown zones. Impact driving, as compared with vibratory driving, has source characteristics (short, sharp pulses with higher peak levels and much sharper rise time to reach those peaks) that are potentially injurious or more likely to produce severe behavioral reactions. Given sufficient notice through use of soft start, marine mammals are expected to move away from a sound source that is annoying prior to its becoming potentially injurious or resulting in more severe behavioral reactions. Environmental conditions in inland waters are expected to generally be good, with calm sea states, and we expect conditions would allow a high marine mammal detection capability, enabling a high rate of success in implementation of shutdowns to avoid injury.

We anticipate individuals exposed to pile driving noise generated at the Annapolis Ferry Terminal will, at most, simply move away from the sound source and be temporarily displaced from the areas of pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted in the Puget Sound region, which have taken place with no known long-term adverse consequences from behavioral harassment. No pupping or breeding areas are present within the action area. Further, animals are likely somewhat habituated to noise-generating human activity given the proximity to Seattle-Bremerton and Port Orchard ferry lanes, recent construction at NBK Bremerton and the Manette Bridge (both of which involve pile driving), and general recreational, commercial and military vessel traffic. Monitoring reports from the Manette Bridge and NBK Bremerton demonstrate no discernable individual or population level impacts from similar pile driving activities.

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

- No mortality is anticipated or authorized;
- As a result of the nature of the activity in concert with the planned mitigation requirements, injury is not anticipated for any species;
- The anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior;
- There is no significant habitat within the industrialized project areas, including known areas or features of special significance for foraging or reproduction; and
- The proposed mitigation measures reduce the effects of the specified activity to the level of least practicable adverse impact.

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

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

We propose to authorize incidental take of four marine mammal stocks. The total amount of taking proposed for authorization is less than 2 percent of the stock of Steller sea lions, California sea lions, and harbor porpoise and less than 20 percent for harbor seals (see Table X). We note that harbor seals takes likely represent multiple exposures of fewer individuals. The amount of take proposed is considered relatively small percentages and we preliminarily find are small numbers of marine mammals relative to the estimated overall population abundances for those stocks.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

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

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Region Protected Resources Division Office, whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity. On April 5, 2018, NMFS WCR issued a Biological Opinion to the Federal Transit Administration concluding the project is not likely to adversely affect Southern Resident killer whales and the Western North Pacific and Central American humpback whale distinct population segments (DPSs). Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to Kitsap Transit for conducting pile driving and removal in Puget Sound over the course of 17 days, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. This section contains a draft of the IHA itself. The wording contained in this section is proposed for inclusion in the IHA (if issued).

This Incidental Harassment Authorization (IHA) is valid for a period of one year from the date of issuance.

This IHA is valid only for pile driving associated with the Annapolis Ferry Dock Project, Puget Sound.

A copy of this IHA must be in the possession of Kitsap Transit, its designees, and work crew personnel operating under the authority of this IHA.

The species authorized for taking are the harbor seal (*Phoca vitulina richardii*), Steller sea lion (*Eumetopias jubatus monteriensis*), California sea lion (*Zalophus californianu*), and harbor porpoise (*Phocoena phocoena vomerina*).

The taking, by Level B harassment only, is limited to the species listed in Table 8. See Table 8 for numbers of take authorized.

The taking by injury (Level A harassment), serious injury, or death of any of the species listed in condition 3(b) of the Authorization or any taking of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA. Kitsap Transit shall conduct briefings between construction supervisors and crews, marine mammal monitoring team, acoustical monitoring team, and Kitsap Transit staff prior to the start of all pile driving, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Mitigation Measures

For in-water heavy machinery work (*e.g.,* barges, tug boats), a minimum 10 m shutdown zone shall be implemented. If a marine mammal comes within 10 m of such operations, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

For all pile driving activity, Kitsap Transit shall implement shutdown zones as described in Table 9.

For all pile driving activity, Kitsap Transit shall implement a minimum shutdown zone of a 10 m radius around the pile.

Pre-activity monitoring shall take place from 30 minutes prior to initiation of pile driving activity and post-activity monitoring shall continue through 30 minutes post-completion of pile driving activity. Pile driving may commence at the end of the 30-minute pre-activity monitoring period, provided observers have determined that the shutdown zone (see Table 6) is clear of marine mammals, which includes delaying start of pile driving activities if a marine mammal is sighted in the shutdown zone.

A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

If a marine mammal approaches or enters the shutdown zone during activities or pre-activity monitoring, all pile driving activities at that location shall be halted or delayed, respectively. If pile driving is halted or delayed due to the presence of a marine mammal, the activity may not resume or commence until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone and 15 minutes have passed without re-detection of the animal. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than thirty minutes.

Kitsap Transit shall use soft start techniques when impact pile driving. Soft start requires contractors to provide an initial set of strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

Kitsap Transit shall access the Orca Network website each morning prior to in-water construction activities and if pile removal or installation ceases for more than two hours. If marine mammals for which take is not authorized (*e.g.,* killer whales, humpback whales, gray whales) are observed and on a path towards the Level B harassment zone, pile driving shall be delayed until animals are confirmed outside of and on a path away from the Level B harassment zone or if one hour passes with no subsequent sightings.

Kitsap Transit shall reduce the transmission of impulsive noise into the marine environment by using a bubble curtain during all impact pile driving.

If a species for which authorization has not been granted, or a species for which authorization has been granted but the authorized takes are met, is observed approaching or within the Level B isopleth, pile driving and removal activities must shut down immediately using delay and shut-down procedures. Activities must not resume until the animal has been confirmed to have left the area or the observation time period has elapsed.

Monitoring and Reporting Measures

Monitoring of pile driving shall be conducted by qualified PSOs (see below), who shall have no other assigned tasks during monitoring periods.

For all pile driving activities, at least one protected species observer (PSOs) shall be stationed at the on-shore vantage point at the outer portion of the

pier to be retained to monitor and implement shutdown or delay procedures, when applicable, through communication with the equipment operator.

If water conditions exceed a Beaufort level 2, or if visibility is limited by rain or fog, an additional on-shore observer will be positioned at the Bremerton Marina and/or a monitor will patrol the monitoring zone in a boat.

The PSO shall access the Orca Network each morning prior to in-water construction activities that may produce noise levels above the disturbance threshold and if pile removal or installation ceases for more than two hours.

Kitsap Transit shall adhere to the following conditions when selecting observers:

Independent PSOs shall be used (*i.e.,* not construction personnel).

The PSO must have prior experience working as a marine mammal observer during construction activities.

Kitsap Transit shall submit PSO CVs for approval by NMFS.

Kitsap Transit shall ensure that observers have the following additional qualifications:

Ability to conduct field observations and collect data according to assigned protocols.

Experience or training in the field identification of marine mammals, including the identification of behaviors.

Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.

Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior.

Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an serious injury, or mortality, Kitsap Transit shall immediately cease the specified activities and report the incident to the Office of Protected Resources (301–427–8401), NMFS, and the West Coast Region Stranding Coordinator (1–866–767–6114), NMFS. The report must include the following information:

Time and date of the incident;

Description of the incident;

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

Description of all marine mammal observations and active sound source use 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).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with Kitsap Transit to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Kitsap Transit may not resume their activities until notified by NMFS.

In the event Kitsap Transit discovers an injured or dead marine mammal, and the lead observer determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), Kitsap Transit shall immediately report the incident to the Office of Protected Resources, NMFS, and the West Coast Region Stranding Coordinator, NMFS.

The report must include the same information identified in 6(b)(i) of this IHA. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with Kitsap Transit to determine whether additional mitigation measures or modifications to the activities are appropriate.

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

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.

Renewals—On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the Dates and Duration section, provided all of the following conditions are met:

A request for renewal is received no later than 60 days prior to expiration of the current IHA.

The request for renewal must include the following:

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.

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.

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this Notice of Proposed IHA for Kitsap Transit's proposed Annapolis Ferry Terminal upgrades. We also request comment on the potential for renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

On a case-by-case basis, NMFS may issue a second one-year IHA without additional notice when (1) another year of identical or nearly identical activities as described in the Specified Activities section is planned or (2) the activities would not be completed by the time the IHA expires and a second IHA would allow for completion of the activities beyond that described in the *Dates and*

Duration section, provided all of the following conditions are met:

• A request for renewal is received no later than 60 days prior to expiration of the current IHA.

• The request for renewal must include the following:

(1) An explanation that the activities to be conducted beyond the initial dates either are identical to the previously analyzed activities or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, take estimates, or mitigation and monitoring requirements.

(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. 2018–10385 Filed 5–15–18; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

Applications for New Award; Center To Improve Social and Emotional Learning and School Safety—Cooperative Agreement

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for a new award for fiscal year (FY) 2018 for the Center To Improve Social and Emotional Learning and School Safety (Center)—Cooperative Agreement, Catalog of Federal Domestic Assistance (CFDA) number 84.424B.

DATES:

Applications Available: May 16, 2018.

Deadline for Transmittal of Applications: July 2, 2018.

Deadline for Intergovernmental Review: August 29, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Eve Birge, U.S. Department of Education, 400 Maryland Avenue SW, Room 3C147, Washington, DC 20202–6450. Telephone: (202) 453–6717. Email: *eve.birge@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Center is to provide technical assistance to support States and districts in the implementation of social and emotional learning evidence-based (as defined in this notice) programs and practices. The Center will enhance the capacity of (1) State educational agencies (SEAs) to support their local educational agencies (LEAs) and (2) LEAs to support their schools.

Background: The Center will be supported by funds reserved for Title IV, Part A technical assistance and capacity building, pursuant to section 4103(a)(3) of the Elementary and Secondary Education Act of 1965 (ESEA).[1]

Positive social and emotional skills and abilities help students attain and apply knowledge and attitudes that enhance personal development, social relationships, and ethical behavior.[2] These skills and abilities help inform how students relate to each other and adults.

Research shows that how students interact with their peers and teachers, approach their schoolwork, and form beliefs about learning has implications on how they perform in the classroom.[3] Evidence-based programs and practices (EBPPs) designed to foster social and emotional learning (SEL) are associated with positive outcomes ranging from better test scores and higher graduation rates to improved social behavior.[4]

A recent meta-study of 82 school-based, universal SEL interventions involving nearly 100,000 students found that SEL benefits youth development, including improved social and emotional skills, attitudes, indicators of well-being, and increased graduation rates.[5] Benefits were similar regardless of students' race, socioeconomic background, or school location.

Another study analyzed the economic impact of six SEL programs and found that on average, every dollar invested yields $11 in long-term benefits, ranging from improved mental and physical health, reduced juvenile crime, and higher lifetime earnings.[6]

But implementation is not always consistent. When there is not adequate training or understanding by implementers, assessment of efficacy, or accountability, it can jeopardize positive student impacts.[7] The technical assistance described in this notice will support States and districts by enhancing their capacity to successfully implement EBPPs.

For the purpose of this notice inviting applications, SEL includes developing and maintaining positive relationships with peers and adults; using self-control; building social skills, including recognizing and managing emotions in oneself; understanding others' emotions and perspectives; making responsible

[1] In December 2015, Congress enacted the Every Student Succeeds Act (ESSA), which reauthorized the ESEA. Therefore, for purposes of this notice, unless otherwise indicated, all references to the ''ESEA'' are to the ''ESEA, as amended by the ESSA.''

[2] Weissberg, R.P., & O'Brien, M.U. (2004). What works in school-based social and emotional learning programs for positive youth development. *The ANNALS of the American Academy of Political and Social Science, 591(1),* 86–97.

[3] Durlak, J.A., Weissberg, R.P., Dymnicki, A.B., Taylor, R.D. & Schellinger, K.B. (2011). The impact of enhancing students' social and emotional learning: A meta-analysis of school-based universal interventions. Child Development, January/February 2011, Volume 82, Number 1, 405–432. Retrieved at: *www.casel.org/wp-content/uploads/2016/06/meta-analysis-child-development-1.pdf.*

[4] Payton, J., Weissberg, R.P., Durlak, J.A., Dymnicki, A.B., Taylor, R.D., Schellinger, K.B., & Pachan, M. (2008). The positive impact of social and emotional learning for kindergarten to eighth-grade students: Findings from three scientific reviews. Chicago, IL: Collaborative for Academic, Social, and Emotional Learning. Retrieved at: *www.casel.org/wp-content/uploads/2016/08/PDF-4-the-positive-impact-of-social-and-emotional-learning-for-kindergarten-to-eighth-grade-students-executive-summary.pdf.*

[5] Taylor, R.D., *Oberle, E., Durlak, J.A.,* & *Weissberg, R.P.* (2017). Promoting positive youth development through school-based social and emotional learning interventions: A meta-analysis of follow-up effects. *Child Development,* 88(4):1156–1171. doi: 10.1111/cdev.12864.

[6] Belfield, C., Bowden, B., Klapp, A., Levin, H., Shand, R., & Zander, S. (2015). *The Economic Value of Social and Emotional Learning.* New York, NY: Center for Benefit-Cost Studies in Education. Retrieved at: *http://cbcse.org/wordpress/wp-content/uploads/2015/02/SEL-Revised.pdf.*

[7] Evans, R., Murphy, S., & Scourfield, J. Implementation of a school-based social and emotional learning intervention: Understanding diffusion processes within complex systems. *Prevention Science.* 2015;16(5):754–764. doi:10.1007/s11121–015–0552–0.

decisions (*i.e.,* ''making good choices''); working effectively in cooperative groups; coping with frustration; reading social cues; resolving interpersonal conflicts; demonstrating compassion and empathy toward others; exercising persistence; building resilience; and developing other SEL skills and abilities.

Under the ESEA, States have an opportunity to broaden their measures of student success to include SEL measures. LEAs that receive funds under the ESEA Title IV–A Student Support and Academic Enrichment (SSAE) Grants program may, under section 4107(a)(3)(J) of the ESEA, use those funds for SEL activities, including interventions that build resilience, self-control, empathy, persistence, and other social and behavioral skills. The following excerpt is taken from the guidance published by the Department on the SSAE grant program (*https://www2.ed.gov/policy/elsec/leg/essa/essassaegrantguid10212016.pdf*): ''Extensive research, as well as educators' own experiences, shows that school-based SEL programs play an important role in fostering healthy relationships and increasing academic and career success.[8] A growing body of research in this field is demonstrating that various tools and practices can enhance students' social and emotional development.[9] For example, implementing practices that support students' sense of belonging and value can increase students' academic success.'' [10]

State-level policies are being developed that reflect these competencies, their expansion, and measurement. Forty-five out of fifty-six ESSA State plans submitted to the Department included SEL programming and skill building. Recently released findings of the 2015–2016 School Survey on Crime and Safety revealed that 66.3 percent of all public schools have SEL programs for students.[11] Increasingly, schools across the country are implementing SEL [12] as there is increasing awareness about how to support students experiencing violence in their neighborhoods and abuse in their homes, drug and alcohol addiction, and pressure to succeed in school. We anticipate that there will be an increased need for technical assistance and training in order to implement programs effectively and with fidelity.

The Aspen Institute's National Commission on Social, Emotional, and Academic Development released a report in January 2018, How learning happens: Supporting students' social, emotional, and academic development, in which they demonstrate that SEL programming and skill building are inextricably linked to improved academic outcomes and student success; particularly salient is the assertion that professional development and training are essential in order for potential gains to be realized.[13] This lends further support to the Department's decision to launch a Center to Improve Social and Emotional Learning and School Safety.

There are many approaches to improving SEL skills and abilities. In order to meet the unique needs and preferences of States and districts, the Center must be able to provide technical assistance on a wide array of approaches. The Center must be able to identify core features of SEL and the components necessary to support implementation so that it can support States and districts with a variety of EBPPs that fit their local contexts. This flexibility and the capacity to accommodate a range of needs and requests can be accomplished, in part, by reviewing the research and evidence and developing a common understanding of the tenets or foundations on which this body of work and assistance can be built.

Priorities: This notice contains one absolute priority. We are establishing the absolute priority for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Supporting the Implementation of Social and Emotional Learning Evidence-Based Programs and Practices

The purpose of the Center is to provide technical assistance to support implementation of social and emotional learning (SEL) evidence-based programs and practices (EBPPs) by enhancing the capacity of (1) SEAs to support their LEAs and (2) LEAs to support their schools.

To meet this priority, applicants must submit a plan demonstrating that the Center will be designed to—

(a) Improve skills of SEA personnel to—

(1) Promote SEL EBPPs through policies, funding mechanisms, and interagency coordination;

(2) Collect and analyze data to inform decision-making regarding implementation of SEL EBPPs; and

(3) Develop the capacity, partnerships, and proficiency needed to provide expert technical assistance regarding implementation of SEL EBPPs.

(b) Improve skills of LEA personnel to—

(1) Implement SEL EBPPs; and

(2) Collect and use data to inform decision-making regarding implementation of SEL EBPPs.

(c) Establish a cadre of subject matter experts to provide training to SEAs and LEAs on how to implement a wide array of SEL EBPPs.

(d) Develop reliable and valid tools and processes for measuring outcomes and evaluating the fidelity of the implementation of SEL EBPPs.

(e) Coordinate with other federally funded technical assistance centers, such as the Department's Office of Safe and Healthy Students' (OSHS) National Technical Assistance Center for the Education of Neglected or Delinquent Children and Youth, the Department's Office of Special Education Programs' (OSEP) and OSHS' Positive Behavioral Interventions and Supports OSEP Technical Assistance Center, and OSEP's Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—Technical Assistance Center on Positive

[8] Durlak, J.A., Weissberg, R.P., Dymnicki, A.B., Taylor, R.D., & Schellinger, K.B. (2011). The impact of enhancing students' social and emotional learning: A meta-analysis of school-based universal interventions. *Child Development,* 82(1), pp. 405–432. Retrieved at: *www.casel.org/wp-content/uploads/2016/06/meta-analysis-child-development-1.pdf.*

[9] CASEL Guide to Effective Social and Emotional Learning Programs (*www.casel.org/guide/*).

[10] Blackwell, L.A., Trzesniewski, K.H., & Dweck, C.S. (2007). Implicit theories of intelligence and achievement across the junior high school transition: A longitudinal study and an intervention. *Child Development,* 78, 246–263. Retrieved at: *mtoliveboe.org/cmsAdmin/uploads/blackwell-theories-of-intelligence-child-dev-2007.pdf.* Cohen, G.L., Garcia, J., Purdie-Vaugns, V., Apfel, N., & Brzustoski, P. (2009). Recursive processes in self-affirmation: Intervening to close the minority achievement gap. *Science,* 324, 400–403.

[11] Diliberti, M., Jackson, M., and Kemp, J. (2017). *Crime, Violence, Discipline, and Safety in U.S. Public Schools: Findings from the School Survey on Crime and Safety: 2015–2016* (NCES 2017–122). U.S. Department of Education, National Center for Education Statistics. Washington, DC. Retrieved at: *http://nces.ed.gov/pubsearch.*

[12] Wanless, S.B. & Domitrovich, C.E. Prevention Science (2015) 16: 1037. Retrieved at: *https://doi.org/10.1007/s11121-015-0612-5.*

[13] The Aspen Institute National Commission on Social, Emotional, and Academic Development. How Learning Happens: Supporting Students' Social, Emotional, and Academic Development. Retrieved at *https://assets.aspeninstitute.org/content/uploads/2018/01/2017_Aspen_InterimReport_Update2.pdf.*

Social, Emotional, and Behavioral Outcomes for Young Children with, and at Risk for, Developmental Delays or Disabilities.

Fourth and fifth years of the project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as: (i) The recommendation of a review team consisting of experts selected by the Secretary and convening for a one-day intensive review during the last half of the second year of the project period; (ii) the timeliness with which, and how well, the requirements of the negotiated cooperative agreement have been or are being met by the project; and (iii) the quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Definitions: The following definitions apply to this competition. The definition of ''evidence-based'' is from section 8101 of the ESEA. The definitions of ''baseline,'' ''performance measure,'' and ''performance target'' are from 34 CFR 77.1.

Evidence-based, when used with respect to a State, local educational agency, or school activity, means an activity, strategy, or intervention that—

(i) Demonstrates a statistically significant effect on improving student outcomes or other relevant outcomes based on—

(I) Strong evidence from at least one well-designed and well-implemented experimental study;

(II) Moderate evidence from at least one well-designed and well-implemented quasi-experimental study; or

(III) Promising evidence from at least one well-designed and well-implemented correlational study with statistical controls for selection bias; or

(ii)(I) Demonstrates a rationale based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes; and

(II) Includes ongoing efforts to examine the effects of such activity, strategy, or intervention.

Baseline means the starting point from which performance is measured and targets are set.

Performance measure means any quantitative indicator, statistic, or metric used to gauge program or project performance.

Performance target means a level of performance that an applicant would seek to meet during the course of a project or as a result of a project.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and application requirements. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements, regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under Title IV, Part A (section 4103 of the ESEA) and therefore qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the absolute priority and application requirements under section 437(d)(1) of GEPA. This priority and the application requirements will apply to the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: This grant program is authorized by Title IV, Part A, Subpart 1 (4103(3), 20 U.S.C. 7113(3)).

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts, 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations in 34 CFR part 299.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $1,000,000.

Estimated Award: $1,000,000 per year for up to 5 years.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Public agencies and private nonprofit or for-profit organizations, including institutions of higher education, with the demonstrated ability and capacity to carry out the activities described in this notice.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants—to directly carry out project activities described in its application—to the following types of entities: Local educational agencies, State educational agencies, institutions of higher education, and nonprofit organizations. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

4. *Participation of Faith-based Organizations:* Faith-based organizations are eligible to apply for grants under this competition provided they meet all statutory and regulatory requirements.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

V. Application Review Information

1. *Selection Criteria and Application Requirements:* The selection criteria for this competition are from 34 CFR 75.210. We are establishing the application requirements accompanying the selection criteria for the FY 2018 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1).

The maximum score for addressing all of the selection criteria is 100 points. The points assigned to each criterion are indicated in parentheses following the criterion. Non-Federal peer reviewers will review each application and score

each program narrative against the following selection criteria:

(a) *Significance of the Project* (up to 30 points)

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (10 points)

(ii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project. (10 points)

(iii) The likelihood that the proposed project will result in system change or improvement. (10 points)

In addressing this criterion, an applicant must describe, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the current and emerging needs of SEAs and LEAs to implement, scale-up, and sustain SEL EBPPs as evidenced by the ability and capacity to (i) present applicable national, State, regional, or local data demonstrating the needs of SEAs and LEAs to implement, scale-up, and sustain SEL EBPPs; and (ii) demonstrate knowledge of current policy initiatives and issues relating to implementing, scaling, and sustaining SEL EBPPs within the context of school improvement efforts; and

(2) Result in (i) improved quality of SEL programming implementation; and (ii) increased scale-up of program implementation in LEAs and SEAs over the course of the project period.

(b) *Quality of Project Services* (up to 35 points)

The Secretary considers the quality of the services to be provided by the proposed project.

(i) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (5 points)

In addition, the Secretary considers the following factors:

(ii) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (15 points)

(iii) The extent to which the technical assistance services to be provided by the proposed project involve the use of efficient strategies, including the use of technology, as appropriate, and the leveraging of non-project resources. (15 points)

In addressing this criterion, an applicant must describe, in the narrative section of the application under ''Quality of Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, linguistic diversity, gender, age, or disability; in addition to vulnerable populations such as students that have had contact with the child welfare or juvenile justice systems or who have experienced homelessness. For example, describe the process that will be used to (i) identify the needs of the intended recipients for technical assistance and information; and (ii) ensure that services and products meet the needs of the intended recipients;

(2) Achieve its goals, objectives, and intended outcomes. Evidence to address this includes (i) measurable intended project outcomes; and (ii) the theory of action on how the proposed project will achieve the intended project outcomes;

(3) Use a conceptual framework to guide the development of project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationship or linkages among these variables, and any empirical support for this framework;

(4) Develop products and provide services that are of sufficient quality, intensity, and duration to achieve the intended outcomes of the proposed project. For example, describe (i) proposed activities to identify, develop, or expand the knowledge base of researchers, trainers, technical assistance providers, and practitioners; (ii) proposed approach to general technical assistance, including the intended recipients of the products and services under this approach; (iii) proposed approach to targeted technical assistance, including the intended recipients of the products and services, and its proposed approach to measure the readiness of potential recipients to work with the project, including their infrastructure, available resources, and ability to build capacity; and (iv) proposed approach to intensive, sustained technical assistance, including the intended recipients of the products and services under this approach;

(5) Develop products and implement services to maximize the project's efficiency. For example, describe (i) how the proposed project will use technology to achieve the intended project outcomes; (ii) how the proposed project will collaborate with other related centers supported by the Department; (iii) with whom the proposed project will collaborate and the intended outcomes of this collaboration; and (iv) how the proposed project will use non-project resources effectively to achieve the intended project outcomes; and

(6) Maintain a website that meets government or industry-recognized standards for accessibility.

(c) *Quality of the Evaluation Plan* (up to 10 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (5 points)

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)

In addressing this criterion, an applicant must describe, in the narrative section of the application under ''Quality of the Evaluation Plan,'' how—

(1) The proposed project will collect and analyze data related to specific and measurable goals, objectives, and intended outcomes of the project. Evidence to address this includes (i) proposed evaluation methodologies, including instruments, data collection methods, and possible analyses; (ii) proposed standards or targets for determining effectiveness; and (iii) proposed methods for collecting data on implementation supports and fidelity of implementation;

(2) The proposed project will use the evaluation results to examine the effectiveness of the project's implementation strategies and the progress toward achieving intended outcomes;

(3) The methods of evaluation will produce quantitative and qualitative data that demonstrate whether the project achieved the intended outcomes; and

(4) The proposed project will identify key components (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) through the depiction of a logic model that lays out the goals, activities, outputs, and outcomes of the proposed project.

(d) *Quality of the Management Plan* (up to 25 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (10 points)

(ii) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project. (10 points)

(iii) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate. (5 points)

In addressing this criterion, an applicant must describe, in the narrative section of the application under ''Quality of the Management Plan,'' how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. For example, clearly define and describe (i) responsibilities for key project personnel, consultants, and subcontractors, as appropriate; and (ii) timelines and milestones for accomplishing the project tasks, recognizing the proposed project period spans up to 60 months;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and demonstrate the appropriateness and adequacy of these time allocations to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, including the method and regularity by which quantitative data will be collected on the scope and frequency of product use and the role(s) of users;

(4) The proposed project will benefit from a diversity of perspectives, including families, educators, technical assistance providers, researchers, and policy makers, among others, in its development and operation; and

(5) The proposed costs are reasonable in relation to the anticipated results and benefits.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20(c).

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report

that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:*

(a) Program performance measures. The Department has established the following performance measures for assessing the effectiveness of the Center to Improve Social and Emotional Learning and School Safety—Cooperative Agreement:

- The number of training and technical assistance events provided by the Center to SEAs and LEAs.
- The percentage of training and technical assistance services and products provided by the Center to SEAs and LEAs that are deemed to be useful through an independent expert review.
- For a representative sample of LEAs that receive training or technical assistance, the percentage of LEAs in which SEL EBPPs are implemented in schools with fidelity as determined through an independent expert review.

(b) Performance measure targets. The applicant must propose in the application annual targets for the measures listed in paragraph (a). As directed under 34 CFR 75.110(b), applicants must include why each proposed performance target is ambitious yet achievable compared to the baseline for the performance measure.

(c) As required under 34 CFR 75.110(c), the applicant must also describe:

(1) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(2) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project. The reviewers of each application will score related selection criteria on the basis of how well an applicant has considered the requirements in paragraphs (a), (b), and (c) in conceptualizing the approach and evaluation of the project.

The grantee must submit an annual performance report and final performance report with information that is responsive to the performance measures. The Department will consider these data in making annual continuation awards.

Consistent with 34 CFR 75.591, the grantee funded under this program shall comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 11, 2018.

Jason Botel,

Principal Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary of Elementary and Secondary Education.

[FR Doc. 2018–10474 Filed 5–15–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fulbright-Hays Group Projects Abroad Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2018 for the Fulbright-Hays Group Projects Abroad (GPA) program, Catalog of Federal Domestic Assistance (CFDA) number 84.021A.

DATES:

Applications Available: May 16, 2018.

Deadline for Transmittal of Applications: July 5, 2018.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

FOR FURTHER INFORMATION CONTACT: Carla White, U.S. Department of Education, 400 Maryland Avenue SW, Room 258–22, Washington, DC 20202. Telephone: (202) 453–6304. Email: *GPA@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Fulbright-Hays GPA program is to promote, improve, and develop modern foreign languages and area studies at varying levels of education. The program provides opportunities for faculty, teachers, and undergraduate and graduate students to conduct individual and group projects overseas to carry out research and study in the fields of modern foreign languages and

area studies. This competition will support both Fulbright-Hays GPA short-term projects (GPA short-term projects) and Fulbright-Hays GPA long-term projects (GPA long-term projects).

There are three types of GPA short-term projects: (1) Short-term seminar projects of four to six weeks in length designed to increase the linguistic or cultural competency of U.S. students and educators by focusing on a particular aspect of area study, such as the culture of an area or country of study (34 CFR 664.11); (2) curriculum development projects of four to eight weeks in length that provide participants an opportunity to acquire resource materials for curriculum development in modern foreign language and area studies for use and dissemination in the United States (34 CFR 664.12); and (3) group research or study projects of three to twelve months in duration designed to give participants the opportunity to undertake research or study in a foreign country (34 CFR 664.13).

GPA long-term projects are advanced overseas intensive language projects that may be carried out during a full year, an academic year, a semester, a trimester, a quarter, or a summer. GPA long-term projects are designed to take advantage of the opportunities in the foreign country that are not present in the United States when providing intensive advanced foreign language training. Only participants who have successfully completed at least two academic years of training in the language to be studied are eligible for language training under this program. In addition, the language to be studied must be indigenous to the host country and maximum use must be made of local institutions and personnel (34 CFR 664.14).

Applicants may submit only one GPA short-term or GPA long-term application under this notice and must identify whether they are applying for a GPA short-term project or a GPA long-term project grant.

Priorities: This notice contains one absolute priority and four competitive preference priorities. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority is from the regulations for this program (34 CFR 664.32). Competitive Preference Priorities 1 and 2 are from the notice of final priorities and definitions published in the **Federal Register** on June 16, 2016 (81 FR 39196). Competitive Preference Priority 3 is from the regulations for this program (34 CFR 664.32), and Competitive Preference Priority 4 is from the notice of final priorities published in the **Federal Register** on September 24, 2010 (75 FR 59050).

Absolute Priority: For FY 2018 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Specific Geographic Regions of the World.

A group project that focuses on one or more of the following geographic regions of the world: Africa, East Asia, South Asia, Southeast Asia and the Pacific, the Western Hemisphere (Central and South America, Mexico, and the Caribbean), Eastern and Central Europe and Eurasia, and the Near East.

Competitive Preference Priorities: For FY 2018, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award three additional points to an application that meets Competitive Preference Priority 1; two additional points to an application that meets Competitive Preference Priority 2; two additional points to an application that meets Competitive Preference Priority 3; and two points to an application that meets Competitive Preference Priority 4. Applicants for GPA short-term projects may address Competitive Preference Priorities 1, 3, and 4. Applicants for GPA long-term projects may address Competitive Preference Priorities 2 and 3. An applicant must identify the priority or priorities that it believes it meets and provide documentation supporting its claims.

These priorities are:

Competitive Preference Priority 1—Applications for GPA Short-Term Projects From Selected Institutions and Organizations (3 Points).

Applications for GPA short-term projects from the following types of institutions and organizations:

- Minority-Serving Institutions (MSIs)
- Community colleges
- New applicants
- State educational agencies

Competitive Preference Priority 2—Applications for GPA Long-Term Projects From MSIs (2 Points).

Applications for GPA long-term advanced overseas intensive language training projects from MSIs.

Competitive Preference Priority 3—Substantive Training and Thematic Focus on Less Commonly Taught Languages (2 Points).

Applications that propose GPA short-term projects or GPA long-term projects that provide substantive training and thematic focus on any modern foreign language except French, German, or Spanish.

Competitive Preference Priority 4—Inclusion of K–12 Educators (2 Points).

Applications that propose short-term projects abroad that develop and improve foreign language studies, area studies, or both at elementary and secondary schools by including K–12 teachers or K–12 administrators as at least 50 percent of the project participants.

Definitions: The following definitions are from the notice of final priorities and definitions published in the **Federal Register** on June 16, 2016 (81 FR 39196) and are designed to provide clarity for applicants addressing the competitive preference priorities.

Community college means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1058(f)); or an institution of higher education (IHE) (as defined in section 101 of the HEA (20 U.S.C. 1001)) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent).

Minority-serving institution (MSI) means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

New applicant means any applicant that has not received a discretionary grant from the Department of Education under the Fulbright-Hays Act prior to the deadline date for applications under this program.

State educational agency means the State board of education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in a State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

Program Authority: 22 U.S.C. 2452(b)(6).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of

the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 664. (e) The notice of final priorities and definitions published in the **Federal Register** on June 16, 2016 (81 FR 39196). (f) The notice of final priorities for this program published in the **Federal Register** on September 24, 2010 (75 FR 59050).

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $2,792,440.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applications from this competition.

Estimated Range of Awards:

GPA short-term projects: $50,000–$100,000.

GPA long-term projects: $50,000–$250,000.

Estimated Average Size of Awards:

GPA short-term projects: $80,059.

GPA long-term projects: $185,025.

Maximum Award: We will not make a GPA short-term award exceeding $100,000 for a single project period of 18 months. We will not make a GPA long-term project award exceeding $250,000 for a single budget period of 24 months.

Estimated Number of Awards: 25.

GPA short-term projects: 10.

GPA long-term projects: 15.

Note: The Department is not bound by any estimates in this notice.

Project Period:

GPA short-term projects: Up to 18 months.

GPA long-term projects: Up to 24 months.

III. Eligibility Information

1. *Eligible Applicants:* (1) IHEs, (2) State departments of education, (3) Private nonprofit educational organizations, and (4) Consortia of these entities.

Eligible Participants: Citizens, nationals, or permanent residents of the United States, who are (1) faculty members who teach modern foreign languages or area studies in an IHE, (2) teachers in elementary or secondary schools, (3) experienced education administrators responsible for planning, conducting, or supervising programs in modern foreign language or area studies at the elementary, secondary, or postsecondary levels, or (4) graduate students, or juniors or seniors in an IHE, who plan teaching careers in modern foreign languages or area studies.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* For information on how to submit an application please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 12, 2018 (83 FR 6003) and available at *www.gpo.gov/fdsys/pkg/FR-2018-02-12/pdf/2018-02558.pdf.*

2. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

3. *Funding Restrictions:* We specify unallowable costs in 34 CFR 664.33. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative (Part III) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 40 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended 40-page limit does not apply to Part I, the Application for Federal Assistance face sheet (SF 424); the supplemental information form required by the Department of Education; Part II, Budget Information—Non-Construction Programs (ED 524); Part IV, assurances, certifications, and the response to section 427 of the General Education Provisions Act; the table of contents; the one-page project abstract; the appendices; or the line-item budget. However, the recommended page limit does apply to all of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 664.31 and are as follows:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information to determine the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition.

(b) *Quality of key personnel.* (10 points)

(1) The Secretary reviews each application for information to determine the quality of key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and supplies that the applicant plans to use are adequate.

(f) Potential impact of the project on the development of the study of modern foreign languages and area studies in American education. (15 points)

(g) The project's relevance to the applicant's educational goals and its relationship to its program development in modern foreign languages and area studies. (10 points)

(h) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (10 points)

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For FY 2018, GPA short-term project applications will be reviewed by separate panels according to world area. GPA long-term project applications will be reviewed by one panel. A rank order from the highest panel score to the lowest score will be developed for each of the two types of projects and will be used for funding purposes.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the following measure will be used by the Department to evaluate the success of the GPA short-term program: The percentage of GPA short-term project participants who disseminated information about or materials from their group project

abroad through more than one outreach activity within six months of returning to their home institution. The following measure will be used by the Department to evaluate the success of the GPA long-term program: The percentage of GPA long-term project participants who increased their reading, writing, and/or listening/speaking foreign language scores by one proficiency level. The efficiency of the GPA long-term program will be measured by considering the cost per GPA participant who increased his/her foreign language score in reading, writing, and/or listening/speaking by at least one proficiency level.

The information provided by grantees in their performance reports submitted via the International Resource Information System (IRIS) will be the source of data for this measure. Reporting screens for institutions can be viewed at: *http://iris.ed.gov/iris/pdfs/gpa_director.pdf* and *http://iris.ed.gov/iris/pdfs/gpa_participant.pdf.*

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or portable document format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 11, 2018.

Frank T. Brogan,

Principal Deputy Assistant Secretary and Delegated the duties of the Assistant Secretary, Office of Planning, Evaluation and Policy Development, Delegated the duties of the Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 2018–10475 Filed 5–15–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Fulbright-Hays Doctoral Dissertation Research Abroad Fellowship Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2018 for the Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA) Fellowship program, Catalog of Federal Domestic Assistance (CFDA) number 84.022A.

DATES:

Applications Available: May 16, 2018.

Deadline for Transmittal of Applications: July 2, 2018.

ADDRESSES: The addresses pertinent to this DDRA competition—including the addresses for obtaining and submitting an application—can be found under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Dr. Pamela J. Maimer, U.S. Department of Education, 400 Maryland Avenue SW, Room 258–24, Washington, DC 20202. Telephone: (202) 453–6891. Email: *ddra@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Fulbright-Hays DDRA Fellowship program provides opportunities to doctoral candidates to engage in full-time dissertation research abroad in modern foreign languages and area studies. The program is designed to contribute to the development and improvement of the study of modern foreign languages and area studies in the United States.

Priorities: This notice contains one absolute priority, two competitive preference priorities, and one invitational priority. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute and competitive preference priorities are from the regulations for this program (34 CFR 662.21(d)).

Absolute Priority: For FY 2018, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Specific Geographic Regions of the World.

A research project that focuses on one or more of the following geographic areas: Africa, East Asia, Southeast Asia and the Pacific Islands, South Asia, the Near East, Central and Eastern Europe and Eurasia, and the Western Hemisphere (excluding the United States and its territories).

Competitive Preference Priorities: Within this absolute priority, we give competitive preference to applications that address one or both of the following priorities. Under 34 CFR 75.105(c)(2)(i), for FY 2018, we award an additional two points to an application that meets Competitive Preference Priority 1 and three points to an application that meets Competitive Preference Priority 2 (up to 5 additional points possible).

These priorities are:

Competitive Preference Priority 1—Focus on Less Commonly Taught Languages (2 points).

A research project that focuses on any modern foreign language except French, German, or Spanish.

Competitive Preference Priority 2—Thematic Focus on Academic Fields (3 points).

A research project conducted in the field of science, technology, engineering, mathematics, computer science, education (comparative or international), international development, political science, public health, or economics.

Note: Applicants that address Competitive Preference Priority 2 must intend to engage in full-time dissertation research abroad in modern foreign languages and area studies with a thematic focus on any one of the academic fields referenced above.

Invitational Priority: For FY 2018, this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Applications from Minority-Serving Institutions.

For purposes of this invitational priority, Minority-Serving Institution means an institution of higher education (IHE) that is eligible to receive assistance under part A of title III, under part B of title III, or under title V of the Higher Education Act of 1965, as amended.

Program Authority: 22 U.S.C. 2452(b)(6).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR

part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 662.

Note: The open licensing requirement in 2 CFR 3474.20 does not apply for this program.

II. Award Information

Type of Award: Discretionary grants redistributed as fellowships to individual beneficiaries.

Estimated Available Funds: $3,408,151.

Estimated Range of Awards: $15,000–60,000.

Estimated Average Size of Awards: $37,452.

Estimated Number of Awards: 91.

Note: The Department is not bound by any estimates in this notice.

Project Period: The institutional project period is 18 months, beginning October 1, 2018. Students may request funding for a period of no less than six months and no more than 12 months.

III. Eligibility Information

1. *Eligible Applicants:* IHEs. As part of the application process, students submit individual applications to the IHE. The IHE then officially submits all eligible individual student applications with its grant application to the Department.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Other:* Under 34 CFR 662.22(b), no student applicant may receive grants from the Fulbright U.S. Student Program (FUSP) and a grant from the Fulbright-Hays DDRA Fellowship Program concurrently. Once a candidate has accepted an award from FUSP and FUSP has expended funds on the student, the student is then ineligible for a grant under the Fulbright-Hays DDRA Fellowship Program. A student applying for a grant under the Fulbright-Hays DDRA Fellowship Program must indicate on the application if the student has currently applied for a FUSP grant. If, at any point, the candidate accepts a FUSP award prior to being notified of the candidate's status with the Fulbright-Hays DDRA Fellowship Program, the candidate should immediately notify the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. If, after consultation with FUSP, we determine that FUSP has expended funds on the student (*e.g.,* the candidate has attended the pre-departure orientation or was issued grant funds), the candidate will be considered ineligible for an award under the Fulbright-Hays DDRA Fellowship Program.

IV. Application and Submission Information

1. *Address to Request Application Package:* Both IHEs and student applicants can obtain an application package via the internet or from the Education Publications Center (ED PUBS). To obtain a copy via the internet, use the following address: *www.G5.gov.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its website, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov*.

If you request an application package from ED Pubs, be sure to identify this program as follows: CFDA number 84.022A.

2. *Recommended Page Limits:* The application narrative is where the student applicant addresses the selection criteria that reviewers use to evaluate the application. We recommend that the student applicant (1) limit the application narrative to no more than 10 pages and the bibliography to no more than two pages; and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative and bibliography. However, student applicants may single space all text in charts, tables, figures, graphs, titles, headings, footnotes, endnotes, quotations, bibliography, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the Application for Federal Assistance face sheet (SF 424), the supplemental information form required by the Department of Education, or the assurances and certification. However, student applicants must include their complete responses to the selection criteria in the application narrative. The recommended page limits only apply to the application narrative and bibliography.

3. *Submission Dates and Times:*

Submit applications for grants under the program electronically using *G5.gov*. For information (including dates and times) about how to submit your application electronically, please refer to 7. *Other Submission Requirements.*

We do not consider an application that does not comply with the deadline requirements.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:*

To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following website: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN.

We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can submit an application through G5.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a *SAM.gov* Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

7. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically unless an IHE qualifies for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Submit applications for grants under the Fulbright-Hays DDRA Fellowship Program, CFDA number 84.022A, electronically using the G5 system, accessible through the Department's G5 site at: *www.G5.gov.* While completing the electronic application, both the IHE and the student applicant will be entering data online that will be saved into a database. Neither the IHE nor the student applicant may email an electronic copy of a grant application to us.

Please note the following:

- The process for submitting applications electronically under the Fulbright-Hays DDRA Fellowship Program has several parts. The following is a brief summary of the process; however, all applicants should review the detailed description of the application process in the application package. In summary, the major steps are:

(1) IHEs must email the name of the institution and the full name and email address of potential project director to *ddra@ed.gov.* We recommend that applicant IHEs submit this information as soon as possible to ensure that they obtain access to G5 well before the application deadline date. We suggest that IHEs submit this information no later than two weeks prior to the closing date to facilitate timely submission of their applications;

(2) Students must complete their individual applications and submit them to their IHE's project director using G5;

(3) Persons providing references for individual students must complete and submit reference forms for the students and submit them to the IHE's project director using G5; and

(4) The IHE's project director must officially submit the IHE's application, including all eligible individual student applications, reference forms, and other required forms, using G5.

- The IHE must complete the electronic submission of the grant application by 4:30:00 p.m., Eastern Time, on the application deadline date. G5 will not accept an application for this competition after 4:30:00 p.m., Eastern Time, on the application deadline date. Therefore, we strongly recommend that both the IHE and the student applicant not wait until the application deadline date to begin the application process.
- The hours of operation of the G5 website are 6:00 a.m. Monday until 9:00 p.m., Wednesday; and 6:00 a.m. Thursday until 3:00 p.m., Sunday, Eastern Time. Please note that, because of maintenance, the system is unavailable between 3:00 p.m. on Sundays and 6:00 a.m. on Mondays, and between 9:00 p.m. on Wednesdays and 6:00 a.m. on Thursdays, Eastern Time. Any modifications to these hours are posted on the G5 website.
- Student applicants will not receive additional point value because the student submits his or her application in electronic format, nor will we penalize the IHE or student applicant if the applicant qualifies for an exception to the electronic submission requirement, as described elsewhere in this section, and submits an application in paper format.
- IHEs must submit all documents electronically, including all information typically provided on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- Both IHEs and student applicants must upload any narrative sections and all other attachments to their application as files in a read-only flattened Portable Document Format (PDF), meaning any fillable documents must be saved and submitted as non-fillable PDF files. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will be unable to review that material. Please note that this will likely result in your application not being considered for funding. The Department will not convert material from other formats to PDF.
- Submit student transcripts electronically through the G5 system.
- Prior to submitting your electronic application, you may wish to print a copy of it for your records.
- After the individual student applicant electronically submits his or her application to the student's IHE, the student will receive an automatic acknowledgment. After a person submits a reference electronically, he or she will receive an online confirmation. After the applicant IHE submits its application, including all eligible individual student applications, to the Department, the applicant IHE will receive an automatic acknowledgment that will include a unique PR/Award number for the IHE's application.
- Within three working days after submitting its electronic application the applicant IHE must—

(1) Print SF 424 from G5;

(2) The applicant IHE's Authorizing Representative must sign this form;

(3) Place the PR/Award number in the upper right-hand corner of the hard-copy signature page of the SF 424; and

(4) Fax the signed SF 424 to the Application Control Center at (202) 245–6272.

- We may request that you provide us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If an IHE is prevented from electronically submitting its application on the application deadline date because the G5 system is unavailable, we will grant the IHE an extension until 4:30:00 p.m., Eastern Time, the following business day to enable the IHE to transmit its application electronically, by mail, or by hand delivery. We will grant this extension if—

(1) The IHE is a registered user of the G5 system and the IHE has initiated an electronic application for this competition; and

(2) (a) G5 is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Eastern Time, on the application deadline date; or

(b) G5 is unavailable for any period of time between 3:30 p.m. and 4:30:00 p.m., Eastern Time, on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting the IHE an extension. To request this extension or to confirm our acknowledgment of any system unavailability, an IHE may contact

either (1) the person listed under **FOR FURTHER INFORMATION CONTACT** in section I of this notice or (2) the e-Grants help desk at 1–888–336–8930. If G5 is unavailable due to technical problems with the system and, therefore, the application deadline is extended, an email will be sent to all registered users who have initiated a G5 application. Extensions referred to in this section apply only to the unavailability of the G5 system.

b. *Submission of Paper Applications.*

We discourage paper applications, but if electronic submission is not possible (*e.g.,* you do not have access to the internet), you must provide a written statement that you intend to submit a paper application. Send this written statement no later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday) to Dr. Pamela J. Maimer, U.S. Department of Education, 400 Maryland Ave. SW, Room 258–24, Washington, DC 20202–4260. Telephone: (202) 453–6891. Email: *ddra@ed.gov.*

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. Please send this statement to a person listed in the **FOR FURTHER INFORMATION CONTACT** section of the competition NIA.

If you submit a paper application, you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.022A), LBJ Basement Level 1, 400 Maryland Avenue SW, Washington, DC 20202–4260.

The IHE must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If the IHE mails its application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, the IHE should check with its local post office.

We will not consider applications postmarked after the application deadline date.

c. *Note for Mail or Hand Delivery of Paper Applications:* If an IHE mails or hand delivers its application to the Department—

(1) The IHE must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which the IHE is submitting its application; and

(2) The Application Control Center will mail a notification of receipt of the IHE's grant application. If the IHE does not receive this grant notification within 15 business days from the application deadline date, the IHE should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from the regulations for this program in 34 CFR 662.21 and are as follows:

(a) *Quality of proposed project.* (60 points) The Secretary reviews each application to determine the quality of the research project proposed by the applicant. The Secretary considers—

(1) The statement of the major hypotheses to be tested or questions to be examined, and the description and justification of the research methods to be used;

(2) The relationship of the research to the literature on the topic and to major theoretical issues in the field, and the project's originality and importance in terms of the concerns of the discipline;

(3) The preliminary research already completed in the United States and overseas or plans for such research prior to going overseas, and the kinds, quality and availability of data for the research in the host country or countries;

(4) The justification for overseas field research and preparations to establish appropriate and sufficient research contacts and affiliations abroad;

(5) The applicant's plans to share the results of the research in progress and a copy of the dissertation with scholars and officials of the host country or countries; and

(6) The guidance and supervision of the dissertation advisor or committee at all stages of the project, including guidance in developing the project, understanding research conditions abroad, and acquainting the applicant with research in the field.

(b) *Qualifications of the applicant.* (40 points) The Secretary reviews each application to determine the qualifications of the applicant. The Secretary considers—

(1) The overall strength of the applicant's graduate academic record;

(2) The extent to which the applicant's academic record demonstrates strength in area studies relevant to the proposed project;

(3) The applicant's proficiency in one or more of the languages (other than English and the applicant's native language) of the country or countries of research, and the specific measures to be taken to overcome any anticipated language barriers; and

(4) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience, or both.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

For FY 2018, student applications will be divided into seven categories based on the world area focus of their research projects, as described in the absolute priority. Language and area studies experts in discrete world area-based panels will review the student applications. Each panel will review, score, and rank its applications separately from the applications assigned to the other world area panels. However, all fellowship applications will be ranked together from the highest to lowest score for funding purposes.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk

conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If a student application is successful, we notify the IHE's U.S. Representative and U.S. Senators and send the IHE a Grant Award Notification (GAN); or we may send the IHE an email containing a link to access an electronic version of the GAN. We may notify the IHE informally, also.

If a student application is not evaluated or not selected for funding, we notify the IHE.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates the approved application as part of the binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. Grantees are required to use the electronic data instrument *International Resource Information System* (IRIS) to complete the final report. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the objective for the Fulbright-Hays DDRA Fellowship Program is to provide grants to colleges and universities to fund individual doctoral students to conduct research in other countries in modern foreign languages and area studies for periods of 6 to 12 months.

The Department will use the following measures to evaluate its success in meeting this objective:

DDRA GPRA Measure 1: The percentage of DDRA fellows who increased their foreign language scores in speaking, reading, or writing by at least one proficiency level.

DDRA GPRA Measure 2: The percentage of DDRA fellows who complete their degree in their program of study within four years of receipt of the fellowship.

DDRA GPRA Measure 3: The percentage of DDRA fellows who found employment that utilized their language and area studies skills within eight years of receiving their award.

DDRA GPRA Measure 4: Efficiency Measure—The cost per DDRA fellow who found employment that utilized their language and area studies skills within eight years.

The information provided by grantees in their performance report submitted via IRIS will be the source of data for this measure. Reporting screens for institutions and fellows may be viewed at: *http://iris.ed.gov/iris/pdfs/DDRA_director.pdf. http://iris.ed.gov/iris/pdfs/DDRA_fellow.pdf.*

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: May 11, 2018.

Frank T. Brogan,

Principal Deputy Assistant Secretary and Delegated the duties of the Assistant Secretary, Office of Planning, Evaluation and Policy Development, Delegated the duties of the Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 2018–10476 Filed 5–15–18; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted an information collection request to OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Labor Relations Report collection. The collection requests information from the Department of Energy Management and Operation (M&O) and Facilities Management Contractors for contract administration,

management oversight, and cost control. The information collection will assist the Department in evaluating the implementation of the contractors' work force collective bargaining agreements, and apprise the Department of significant labor-management developments at DOE contractor sites. This information is used to ensure that Department contractors maintain good labor relations and retain a workforce in accordance with the terms of their contract and in compliance with statutory and regulatory requirements as identified by contract.

DATES: Comments regarding this collection must be received 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, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–4650.

ADDRESSES: Written comments should be sent to: DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW, Washington, DC 20503. And to: John M. Sullivan, GC–63, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or by fax at (202) 586–0971; or by email *to john.m.sullivan@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: John M. Sullivan, Attorney-Advisor (Labor), GC–63, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or by fax at (202) 586–0971 or by email to *john.m.sullivan@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) *OMB No.:* 1910–5143; (2) *Information Collection Request Title:* Labor Relations Report; (3) *Type of Request:* Renewal; (4) *Purpose:* The proposed collection will request information from the Department of Energy M&O and Facilities Management Contractors for contract administration, management oversight, and cost control. This information is used to ensure that Department contractors maintain good labor relations and retain a workforce in accordance with the terms of their contract and in compliance with statutory and regulatory requirements as identified by contract. The respondents are Department M&O and Facility Management Contractors; (5) *Annual Estimated Number of Respondents:* 35; (6) *Annual Estimated Number of Total Responses:* 35; (7) *Annual Estimated Number of Burden Hours:* 1.84 per respondent for total of 64.4 per year; (8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $2,447.20.

Statutory Authority: 42 U.S.C. 7254, 7256.

Issued in Washington, DC, on: March 9, 2018.

Jean S. Stucky,

Assistant General Counsel for Contractor Human Resources, Office of the General Counsel.

[FR Doc. 2018–10445 Filed 5–15–18; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Meeting of the Defense Programs Advisory Committee

AGENCY: Office of Defense Programs, National Nuclear Security Administration, Department of Energy.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Defense Programs Advisory Committee (DPAC). The Federal Advisory Committee Act requires that public notice of meetings be announced in the **Federal Register**. Due to national security considerations, under section 10(d) of the Act and 5 U.S.C. 552b(c), the meeting will be closed to the public and matters to be discussed are exempt from public disclosure under Executive Order 13526 and the Atomic Energy Act of 1954, 42 U.S.C. 2161 and 2162, as amended.

DATES: June 14–15, 2018 8:30 a.m. to 5:00 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Dana Hunter, Office of RDT&E (NA–11), National Nuclear Security Administration, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, (202) 287–6287.

SUPPLEMENTARY INFORMATION:

Background: The DPAC provides advice and recommendations to the Deputy Administrator for Defense Programs on the stewardship and maintenance of the Nation's nuclear deterrent.

Purpose of the Meeting: The purpose of this meeting of the DPAC is to finalize the report on Plutonium and discuss the path ahead on new topics.

Type of Meeting: In the interest of national security, the meeting will be closed to the public. The Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(d), and the Federal Advisory Committee Management Regulation, 41 CFR 102–3.155, incorporate by reference the Government in the Sunshine Act, 5 U.S.C. 552b, which, at 552b(c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters will be discussed. Such data and matters will be discussed at this meeting.

Tentative Agenda: Welcome; reading of final draft of report; discussion of report, as necessary; (tentative) acceptance of report; discussion of next charges; conclusion.

Public Participation: There will be no public participation in this closed meeting. Those wishing to provide written comments or statements to the Committee are invited to send them to Dana Hunter at the address listed above.

Minutes: The minutes of the meeting will not be available.

Issued at Washington, DC, on May 10, 2018.

Latanya. Butler,

Deputy Committee Management Officer.

[FR Doc. 2018–10411 Filed 5–15–18; 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: RP95–408–085.
Applicants: Columbia Gas Transmission, LLC.
Description: Annual Report on Sharing Profits from Base Gas Sales with Customers of Columbia Gas Transmission, LLC.
Filed Date: 5/1/18.
Accession Number: 20180501–5441.
Comments Due: 5 p.m. ET 5/14/18.

Docket Numbers: RP18–784–001.
Applicants: Columbia Gas Transmission, LLC.
Description: Tariff Amendment: Virginia Power Amended Filing to be effective 5/1/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5104.
Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: RP18–809–000.
Applicants: Trailblazer Pipeline Company LLC.

Description: § 4(d) Rate Filing: Neg Rate 2018–05–09 Citadel A1 to be effective 5/9/2018.

Filed Date: 5/9/18.

Accession Number: 20180509–5103.

Comments Due: 5 p.m. ET 5/21/18.

Docket Numbers: RP18–762–001.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: Tariff Amendment: Supplement to Clarifications to Request for Services and Pro Forma Filing to be effective 6/1/2018.

Filed Date: 5/10/18.

Accession Number: 20180510–5001.

Comments Due: 5 p.m. ET 5/22/18.

Docket Numbers: RP18–810–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Update Filing—Removal of Expired Agreements May 2018 to be effective 6/11/2018.

Filed Date: 5/10/18.

Accession Number: 20180510–5000.

Comments Due: 5 p.m. ET 5/22/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10398 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2195–161]

Portland General Electric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment Application.

b. *Project No.:* 2195–161.

c. *Date Filed:* March 16 and 19, 2018, and supplemented April 4, 18 and May 2, 2018.

d. *Applicant:* Portland General Electric Company.

e. *Name of Project:* Clackamas River Hydroelectric Project.

f. *Location:* Clackamas River in Clackamas County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* John Esler, Project Manager, Portland General Electric Company, 121 SW Salmon St., Portland, Oregon 97204. Telephone: (503) 464–8563, or email address: *john.esler@pgn.com*

i. *FERC Contact:* Mark Pawlowski, telephone: (202) 502–6052, or email address: *mark.pawlowski@ferc.gov*.

j. Deadline for filing comments, motions to intervene, and protests, is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2195–161.

k. *Description of Request:* Portland General Electric Company (licensee) proposes to: Rebuild the Faraday development powerhouse to improve its seismic stability; remove existing turbine units 1, 2, 3, 4, and 5 and replace them with two more efficient Kaplan turbine units; install features to prevent the powerhouse from flooding during high flow events. The licensee would replace the 8-foot diameter penstocks for units 1 through 4 and the 9-foot diameter penstock for unit 5 with two 9-foot diameter penstocks. The licensee would continue to use the 8-foot diameter intakes for units 2 through 5 and cap intake 1 because it will no longer be used. The licensee proposes to replace trashracks for intakes 4 and 5 and automate the existing manual trashrack rakes.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208- 3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''MOTION TO INTERVENE'', or ''PROTEST'' as applicable; (2) set forth in the heading the name of the applicant and the project number(s) of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person intervening or protesting; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of the application. Agencies may obtain copies of the application directly from the applicant.

A copy of any motion to intervene or protest must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: May 9, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–10442 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER12–1338–003; ER12–1347–004]

Order Establishing Briefing Schedule: Duke Energy Corporation Progress Energy, Inc.; Carolina Power & Light Company

Before Commissioners: Kevin J. McIntyre, Chairman; Cheryl A. LaFleur, Neil Chatterjee, Robert F. Powelson, and Richard Glick.

1. On July 14, 2017, the United States Court of Appeals for the District of Columbia (D.C. Circuit) issued a decision,[1] vacating in part the Commission's acceptance of a Joint Dispatch Agreement (JDA) between Duke Energy Carolinas, LLC (Duke Energy Carolinas) and Carolina Power & Light Company (CP&L) [2] and remanding the matter to the Commission for further consideration. The court found that certain provisions in the JDA result in disparate rate treatment between native-load and non-native-load wholesale customers and that the Commission had not offered a valid reason for such a disparity.[3] Also, the court found that the Commission failed to sufficiently respond to several arguments raised by the City of Orangeburg, South Carolina (Orangeburg) regarding certain regulatory conditions in the JDA that Duke Energy Carolinas and CP&L agreed to include pursuant to proceedings before the North Carolina Public Utilities Commission (North Carolina Commission). As discussed below, we establish a briefing schedule to develop a better record on which to make a determination on these two issues.

I. Background

A. Case History

2. The history of this case is recounted at length in earlier Commission orders.[4]

3. As relevant here, in 2012, Duke Energy Corporation (Duke) and Progress Energy, Inc. (Progress) filed on behalf of Duke Energy Carolinas and CP&L a JDA that provided for the joint dispatch of Duke Energy Carolinas' and CP&L's respective generation facilities to serve their loads.[5] In accepting the JDA, the Commission found that the allocation of the lowest energy cost under the JDA to the native-load customers of Duke Energy Carolinas and CP&L is not unduly discriminatory.[6] The Commission stated that this finding was consistent with Order No. 2000, wherein it acknowledged that ''in areas without retail choice, state commissions have the authority to 'require a utility to sell its lowest cost power to native load, as [they] always [have].' '' [7] Also, the Commission found that sections 3.2 (c)(ii)–(iv) of the JDA,[8] which listed certain regulatory conditions that the parties agreed to include in the JDA pursuant to proceedings before North Carolina Commission, pertain to retail ratemaking and, therefore, should be removed from the agreement.[9]

4. Orangeburg requested rehearing, which the Commission denied in the JDA Rehearing Order.[10] In that order, the Commission affirmed its finding that the JDA's pricing methodology (*i.e.,* allocating the lowest cost resources to serve the parties' native loads, while allocating the higher cost resources to off-system sales (non-native load customers)) is just and reasonable.[11] In addition, the Commission held that this methodology does not unduly discriminate against Orangeburg, which is neither a native-load customer of Duke Energy Carolinas nor CP&L.[12] With that determination, the Commission declined to make a finding with respect to Orangeburg's other arguments, such as the lawfulness of the North Carolina Commission's regulatory conditions.[13]

B. D.C. Circuit Remand

5. In *Orangeburg* v. *FERC,* the court stated that, in accepting the JDA, the Commission approved certain provisions that established disparate treatment between native-load and non-native-load wholesale customers.[14] The court stated that, ''according to Orangeburg, these JDA provisions operate against the backdrop of [the North Carolina Commission's] functional veto over which wholesale customers fit into the former category. The court stated that, for the orders to survive review, the Commission must have offer[ed] a valid reason for the disparity between native load and non-native load wholesale customers ''under these circumstances.[15] The court found that the Commission's exclusive

[1] *Orangeburg, South Carolina* v. *FERC,* 862 F.3d 1071 (D.C. Cir. 2017) (*Orangeburg* v. *FERC*).

[2] *Duke Energy Corp.,* 139 FERC 61,193 (2012) (JDA Order), *order denying reh'g,* 151 FERC 61,242 (2015) (JDA Rehearing Order) (together, JDA Orders).

[3] *Orangeburg* v. *FERC,* 862 F.3d at 1084 (citing *Black Oak Energy, LLC* v. *FERC,* 725 F.3d 230, 239 (D.C. Cir. 2013) (*Black Oak*)).

[4] *City of Orangeburg, South Carolina,* 151 FERC 61,241, PP 3–10 (2015) (dismissing Orangeburg's petition for declaratory order); JDA Order, 139 FERC 61,193 at PP 2–4; JDA Rehearing Order, 151 FERC 61,242 at 2–4.

[5] The JDA provides that the savings from the joint dispatch—in fuel, purchased power, and related savings—will go directly to retail and wholesale customers in North Carolina and South Carolina. JDA Order, 139 FERC 61,193 at P 6.

[6] *Id.* P 45.

[7] *Id.* P 45 (quoting from *Regional Transmission Organizations,* Order No. 2000, FERC Stats. & Regs. 31,089 (1999) (Order No. 2000), *order on reh'g,* Order No. 2000–A, FERC Stats. & Regs. 31,092 (2000), *aff'd sub nom. Pub. Util. Dist. No. 1 of Snohomish County, Washington* v. *FERC,* 272 F.3d 607 (D.C. Cir. 2001)).

[8] Section 3.2 (c)(ii)–(iv) of the JDA states:

(ii) Neither [Duke Energy Carolinas] nor [CP&L] may make or incur a charge under this Agreement except in accordance with North Carolina law and the rules, regulations and orders of the [North Carolina Commission] promulgated thereunder;

(iii) Neither [Duke Energy Carolinas] nor [CP&L] may seek to reflect in its North Carolina retail rates (i) any costs incurred under this Agreement exceeding the amount allowed by the [North Carolina Commission] or (ii) any revenue level earned under the Agreement other than the amount imputed by the [North Carolina Commission]; and

(iv) Neither [Duke Energy Carolinas] nor [CP&L] will assert in any forum that the [North Carolina Commission's] authority to assign, allocate, make pro forma adjustments to or disallow revenues or costs for retail ratemaking and regulatory accounting and reporting purposes is preempted and [Duke Energy Carolinas] and [CP&L] will bear the full risk of any preemptive effects of federal law with respect to this Agreement.

JDA Order, 139 FERC 61,193 at P 23.

[9] *Id.* P 37. Also, the Commission noted that ''beyond requiring the removal of these provisions from the JDA, we offer no view on the North Carolina Commission's authority to impose or apply such requirements in its proceeding.'' *Id.*

[10] JDA Rehearing Order, 151 FERC 61,242 at P 1.

[11] *Id.* PP 12–13.

[12] *Id.* at P 13.

[13] *Id.*

[14] *Orangeburg* v. *FERC,* 862 F.3d at 1074, 1081 (wholesale customers are treated differently based on their native-load status. . . . The JDA divides the world into two categories of customers: Native load and non-native load. Only native-load customers—including wholesale customers—enjoy access to the most reliable and lowest cost power.'').

[15] *Id.* at 1084 (citing *Black Oak Energy,* 725 F.3d at 239) (internal quotation marks omitted).

reliance on Order No. 2000 for approving the JDA's disparate treatment and responding to Orangeburg's overlapping Federal Power Act, preemption, and Commerce Clause arguments was untenable for a number of reasons.[16] The court concluded that because the Commission [has not] offer[ed] a valid reason for the disparity, the court could not affirm [the Commission's] approval of the JDA provisions that establish disparate treatment of native-load and non-native-load wholesale customers, and incorporates [the North Carolina Commission's] potentially unlawful regulatory regime.[17] Accordingly, the court vacated in part the JDA Orders and remanded the matter to the Commission for further explanation regarding its approval of the JDA.[18]

II. Discussion

6. We establish a briefing schedule to allow the parties and other interested persons to address the two issues noted below that the D.C. Circuit raised in its decision. Further briefing on these issues will help develop a better record for the Commission to respond to the court's directive to reconsider these issues.

7. We request briefing on the following issues, in particular:

(a) Is the JDA's disparate treatment of native and non-native load wholesale customers unduly discriminatory or preferential? In answering this question, please address the following:

(i) Explain why the JDA treats native and non-native load wholesale customers disparately and whether the differences between these customers justify the disparate treatment.

(ii) Specify in detail the contractual provisions in current or future wholesale contracts that would qualify a wholesale customer for native load treatment under the JDA,[19] as well as any contractual provisions that would disqualify a wholesale customer for native load treatment under the JDA.

(iii) Explain why wholesale sales between Duke Energy Carolinas and CP&L are excluded from the definition of non-native load sales and how the JDA would treat such a sale between the utilities.

(b) Do the North Carolina Commission's regulatory conditions[20] impermissibly interfere with this Commission's jurisdiction over wholesale ratemaking, in violation of the Federal Power Act[21] or the Commerce Clause of the United States Constitution?[22]

8. We require Duke Energy Carolinas and CP&L to submit—and others may submit—initial briefs on or before 45 days from the date of this order. Reply briefs must be submitted on or before 30 days following the due date of the initial briefs. Any person who is not currently a party to the proceeding and who wishes to submit a brief must file a notice of intervention or motion to intervene, as appropriate.

The Commission Orders

(A) Duke Energy Carolinas and CP&L are required to submit, and other parties are hereby permitted to submit initial briefs on or before forty-five (45) days of the date of this order, as discussed in the body of this order.

(B) Parties are hereby permitted to file reply briefs on or before thirty (30) days of the date of filing of initial briefs.

(C) All interested persons who wish to submit briefs but that are not currently parties to Docket Nos. ER12–1338–003 or ER12–1347–004 may submit notices of intervention or motions to intervene, as appropriate, within 21 days of the date of this order. The briefing schedule described in Ordering Paragraphs (A) and (B) will apply to such persons.

(D) The Secretary is hereby directed to publish this order in the **Federal Register**.

By the Commission.

Issued: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10402 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

[16] *Id.* at 1085–1087.

[17] *Id.* at 1087.

[18] *Id.*

[19] The JDA provides that Native Load Customers include wholesale customers that have native load served by Duke Energy Carolinas or CP&L, for which Duke Energy Carolinas or CP&L has an obligation pursuant to current or future wholesale contracts, for the length of such contracts, to engage in planning and to sell and deliver electric capacity and energy in a manner comparable to the [utilities'] service to its Retail Native Load Customers. Duke Energy Carolinas, FERC Electric Tariff, Rate Schedule No. 341 at Article I, Definitions.

[20] Here, we are referring to the regulatory conditions that were in section 3.2 (c)(ii)–(iv) of the JDA, which the JDA Order required be removed.

[21] 16 U.S.C. 824e(a) (2012); *see, e.g., Nantahala Power and Light Company* v. *Thornburg,* 476 U.S. 953 (1986); *Mississippi Power & Light Company* v. *Mississippi ex rel. Moore,* 487 US 354 (1988).

[22] U.S. Const. art. 1, 8, cl. 3; *see, e.g., New England Power Company,* 455 U.S. 331 (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD18–4–000]

Commission Information Collection Activities (FERC–725G); Comment Request; Revision

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of revised information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comments on revisions to the information collection, FERC–725G (Reliability Standards for the Bulk Power System: PRC Reliability Standards) in Docket No. RD18–4–000 and will be submitting FERC–725G to the Office of Management and Budget (OMB) for review of the information collection requirements.

DATES: Comments on the collection of information are due July 16, 2018.

ADDRESSES: You may submit comments identified by Docket No. RD18–4–000 by either of the following methods:

- *eFiling at Commission's Website: http://www.ferc.gov/docs-filing/efiling.asp.*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–725G, Reliability Standards for the Bulk Power System: PRC Reliability Standards.

OMB Control No.: 1902–0252.

Type of Request: Revision of FERC–725G information collection requirements.

Abstract: The information collected by the FERC–725G is required to implement the statutory provisions of section 215 of the Federal Power Act (FPA) (16 U.S.C. 824o). Section 215 of the FPA buttresses the Commission's efforts to strengthen the reliability of the interstate grid.

On March 16, 2018, the North American Electric Reliability Corporation (NERC, the Commission-approved ERO) submitted for Commission approval proposed Reliability Standard PRC–025–2, Generator Relay Loadability. The PRC–025–2 Reliability Standard addresses setting load-responsive protective relays associated with generation facilities at a level to prevent unnecessary tripping of generators during a system disturbance for conditions that do not pose a risk of damage to the associated equipment. Proposed Reliability Standard PRC–025–2 improves upon currently-effective Reliability Standard PRC–025–1 by addressing certain relay setting application issues and by clarifying certain terminology and references. NERC requested that the Commission approve the proposed Reliability Standard and find that the proposed standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. NERC also requested that the Commission approve: (i) The associated Implementation Plan; (ii) the associated Violation Risk Factors (VRFs) and Violation Severity Levels (VSLs), which remain unchanged from PRC–025–1; and (iii) the retirement of currently-effective Reliability Standard PRC–025–1.

NERC proposed that PRC–025–2 shall become effective on the first day of the first calendar quarter after the effective date of the applicable governmental authority's order approving the standard. NERC's Implementation Plan proposed phased-in compliance dates after the effective date of Reliability Standard PRC–025–2.[1]

On May 2, 2018, the Commission approved Reliability Standard PRC–025–2 and the retirement of PRC–025–1.

Type of Respondents: Generator Owner (GO), Transmission Owner (TO), and Distribution Provider (DP).

Estimate of Annual Burden[2]: Details follow on the changes in Docket No. RD18–4–000 to FERC–725G.

FERC–725G, MANDATORY RELIABILITY STANDARD PRC–025–2, IN DOCKET NO. RD18–4–000

Entity	Number of respondents[3] (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours and cost per response[4] ($) (4)	Total annual burden hours and total annual cost ($) (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1) = (6)
(One-time) Review & documentation of relay settings to ensure compliance.	994 GO/TO/DP ...	1	994	20 hrs.; $1,298.20	19,880 hours; $1,290,410.80.	$1,298.20
(On-going) Record Retention (of compliance records for R1 and M1, for 3 years or until mitigation complete).	994 GO/TO/DP ...	1	994	2 hrs.; $62.32	1,988 hours; $61,946.08.	$62.32

FERC–725G, MANDATORY RELIABILITY STANDARD PRC–025–1, RETIREMENT IN DOCKET NO. RD18–4–000

Entity	Number of respondents (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average burden hours and cost[5] ($) (4)	Total annual burden hours and total annual cost ($) (3) * (4) = (5)	Cost per respondent[6] ($) (5) ÷ (1) = (6)
(One-time) Review & documentation of relay settings to ensure compliance, (reduction).	1,019 GO/DP/TO.	1	1,019	20 hrs.; $1,192.40 (reduction).	20,380 hours; $1,215,055.60 (reduction).	$1,192.40 (reduction).
(On-going) Record Retention (of compliance records for R1 and M1, for 3 years or until mitigation complete) (reduction).	1,019 GO/DP/TO.	1	1,019	2 hrs.; $57.90 (reduction).	2,038 hours; $59,000.10 (reduction).	$57.90 (reduction).

[1] See NERC's Implementation Plan at *https://www.nerc.com/pa/Stand/Project%20201604%20Modifications%20to%20PRC0251%20DL/Project_2016_04_Implementation_Plan_Clean_01092018.pdf.*

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[3] According to the NERC compliance registry as of March 9, 2018, NERC has registered 415 distribution providers (DP), 985 generator owners (GO) and 336 transmission owners (TO). However, under NERC's compliance registration program, entities may be registered for multiple functions, so these numbers incorporate some double counting. The number of unique entities responding will be approximately 994 entities registered as a transmission owner, a distribution provider, or a generator owner that is also a transmission owner and/or a distribution owner. This estimate assumes all of the unique entities apply load-responsive protective relays.

[4] The hourly cost (for salary plus benefits) uses the figures from the Bureau of Labor Statistics, May 2017, for two positions involved in the reporting and recordkeeping requirements. These figures include salary (*https://www.bls.gov/oes/current/naics2_22.htm*) benefits *http://www.bls.gov/news.release/ecec.nr0.htm*) and are: Engineer: $64.91/hour, and File Clerk: $31.16/hour. Hourly cost for the engineer are used for the one-time costs, and hourly cost for the file clerk are used for the ongoing record retention.

[5] GO = Generator Owner, DP = Distribution Provider, TO = Transmission Owner, each of which applies load-responsive protective relays at the terminals of the Elements listed in the proposed standard at section 3.2 (Facilities).

[6] The estimated hourly costs (salary plus benefits) are based on Bureau of Labor Statistics (BLS) information May 2014, (at *http://bls.gov/oes/current/naics3_221000.htm#17-0000*) for an electrical engineer ($59.62/hour for review and documentation), and for a file clerk (*$28.95/hour* for record retention). Those figures (and the number of respondents) were used when the standard was approved and added to the OMB inventory. Hourly cost for the engineer are used for the one-time costs, and hourly cost for the file clerk are used for the ongoing record retention.

Net Effect to Burden for FERC–725G: Due to the retirement of PRC–025–1 and implementation of PRC–025–2, the number of respondents is reduced by 25, and the number of annual burden hours is reduced by 550 hours. (The net changes are due to a change in the number of affected entities on the NERC Registry.) The burden per respondent for PRC–025–2 remains 22 hours (total for both one-time and ongoing burden, similar to the now-retired PRC–025–1).

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 9, 2018.

Kimberly D. Bose,

Secretary.

[FR Doc. 2018–10443 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–477–000]

Notice of Application: UGI Central Penn Gas, Inc. and UGI Utilities, Inc.

Take notice that on May 2, 2018, UGI Central Penn Gas, Inc. (CPG), and UGI Utilities, Inc. (UGIU) (collectively, Applicants), both wholly-owned direct subsidiaries of UGI Corporation and both currently located at 2525 N. 12th Street, Reading, Pennsylvania 19605, filed in Docket No. CP18–477–000 an application pursuant to sections 7(b) and 7(f) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations. Specifically, the Applicants request: (i) Authority to abandon certain limited jurisdiction certificates for transportation services held by CPG pertaining to its Maryland local gas distribution system located in Maryland and Pennsylvania; and (ii) for transfer of CPG's service area determination to UGIU. The Applicants state that the requested authorizations are required to implement aspects of the pending transfer of the local natural gas distribution assets from CPG into UGIU pursuant to a corporate merger, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Frank Merkle, Senior Counsel, UGI Corporation, Box 858, Valley Forge, Pennsylvania 19482; or by email at *marklef@ugicorp.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the 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 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 five copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. 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 five 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 31, 2018.

Dated: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10400 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC18–6–000]

Commission Information Collection Activities: (FERC–65, FERC–65a, FERC–65b, FERC–725v) Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the information collections, FERC–65 (Notice of Holding Company Status), FERC–65A (Exemption Notification of holding Company Status), and FERC–65B (Waiver Notification of Holding Company Status), and FERC–725V (Mandatory Reliability Standards: COM Reliability Standards) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collection of information are due June 15, 2018.

ADDRESSES: Comments filed with OMB, identified by OMB Control No. 1902–0218 and OMB Control No. 1902–0277, should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–8528.

A copy of the comments should also be sent to the Commission, in Docket No. IC18–6–000 by either of the following methods:

- *eFiling at Commission's website: http://www.ferc.gov/docs-filing/efiling.asp*
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–65 (Notice of Holding Company Status), FERC–65A (Exemption Notification of Holding Company Status), and FERC–65B (Waiver Notification of Holding Company Status).

OMB Control No.: 1902–0218.

Type of Request: Three-year extension of the FERC–65, FERC–65A and FERC–65B information collection requirements with no changes to the current reporting requirements.

Abstract: The Pursuant to section 366.4 of the Commission's rules and regulations, persons who meet the definition of a holding company shall provide the Commission notification of holding company status.

The FERC–65 is a one-time informational filing outlined in the Commission's regulations at 18 Code of Federal Regulations (CFR) 366.4. The FERC–65 must be submitted within 30 days of becoming a holding company.[1] While the Commission does not require the information to be reported in a specific format, the filing needs to consist of the name of the holding company, the name of public utilities, the name of natural gas companies in the holding company system, and the names of service companies. In addition, the Commission requires the filing to include the names of special-purpose subsidiaries (which provide non-power goods and services) and the names of all affiliates and subsidiaries (and their corporate interrelationship) to each other. Filings may be submitted in hardcopy or electronically through the Commission's eFiling system.

FERC–65A (Exemption Notification of Holding Company Status)

While noting the previously outlined requirements of the FERC–65, the Commission has allowed for an exemption from the requirement of providing the Commission with a FERC–65 if the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or if any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company. Persons seeking this exemption file the FERC–65A, which must include a form of notice suitable for publication in the **Federal Register**. Those who file a FERC–65A in good faith will have a temporary exemption upon filing, after 60 days if the Commission has taken no action, the exemption will be deemed granted. Commission regulations within 18 CFR 366.3 describe the criteria in more specificity.

1. FERC–65B (Waiver Notification of Holding Company Status)

If an entity meets the requirements in 18 CFR 366.3(c), they may file a FERC–65B waiver notification pursuant to the procedures outlined in 18 CFR 366.4. Specifically, the Commission waives the requirement of providing it with a FERC–65 for any holding company with respect to one or more of the following: (1) Single-state holding company systems; (2) holding companies that own generating facilities that total 100 MW or less in size and are used fundamentally for their own load or for sales to affiliated end-users; or (3) investors in independent transmission-only companies. Filings may be made in hardcopy or electronically through the Commission's website.

Type of Respondent: Public utility companies, natural gas companies, electric wholesale generators, foreign utility holding companies.

Estimate of Annual Burden:[2] The Commission estimates the annual public reporting burden for the information collection as:

[1] Persons that meet the definition of a holding company as provided by § 366.1 as of February 8, 2006 shall notify the Commission of their status as a holding company no later than June 15, 2006. Holding companies formed after February 8, 2006 shall notify the Commission of their status as a holding company, no later than the latter of June 15, 2006 or 30 days after they become holding companies.

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.

FERC–65 (NOTIFICATION OF HOLDING COMPANY STATUS), FERC–65A (EXEMPTION NOTIFICATION OF HOLDING COMPANY STATUS), AND FERC–65B (WAIVER NOTIFICATION OF HOLDING COMPANY STATUS)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [3] (4)	Total annual burden hours and total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
FERC–65	12	1	12	3; $229.50	36; $2,754	$229.50
FERC–65A	4	1.25	5	1; $76.50	5; $382.50	$95.63
FERC–65B	4	1.75	7	1; $76.50	7; $535.50	$133.88
Total			24		48; $3,672	

Title: FERC–725V, Mandatory Reliability Standards: COM Reliability Standards.

OMB Control No.: 1902–0277.

Type of Request: Three-year extension of the FERC–725V information collection requirements with no changes to the current reporting requirements.

Abstract: On August 15, 2016, the North American Electric Reliability Corporation (NERC) filed a petition for Commission approval, pursuant to section 215(d)(1) of the Federal Power Act (''FPA'') [4] and Section 39.5 [5] of the Federal Energy Regulatory Commission's regulations, for Reliability Standard COM–001–3 (Communications), the associated Implementation Plan, retirement of currently-effective Reliability Standard COM–001–2.1, and Violation Risk Factors (''VRFs'') and Violation Severity Levels (''VSLs'') associated with new Requirements R12 and R13 in Reliability Standard COM–001–3. Reliability Standard COM–001–3 reflects revisions developed under Project 2015–07 Internal Communications Capabilities, in compliance with the Commission's directive in Order No. 888 that NERC ''develop modifications to COM–001–2, or develop a new standard, to address the Commission's concerns regarding ensuring the adequacy of internal communications capability whenever internal communications could directly affect the reliability opera.

Reliability Standards COM–001–2 and COM–002–4 do not require responsible entities to file information with the Commission. COM–001–2 requires that transmission operators, balancing authorities, reliability coordinators, distribution providers, and generator operators must maintain documentation of Interpersonal Communication capability and designation of Alternate Interpersonal Communication, as well as evidence of testing of the Alternate Interpersonal Communication facilities. COM–002–4 requires balancing authorities, distribution providers, reliability coordinators, transmission operators, and generator operators to develop and maintain documented communication protocols, and to be able to provide evidence of training on the protocols and of their annual assessment of the protocols. Additionally, all applicable entities (balancing authorities, reliability coordinators, transmission operators, generator operators, and distribution providers) must be able to provide evidence of three-part communication when issuing or receiving an Operating Instruction during an Emergency.

Type of Respondents: Public utilities.

Estimate of Annual Burden: [6] The Commission estimates the annual public reporting burden for the information collection as:

FERC–725V, MANDATORY RELIABILITY STANDARDS: COM RELIABILITY STANDARDS

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [7] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
(One-time) [8] Development of Communication Protocols [COM–002–4 R1].	201 (BA, RC & TOP)	1	201	8 hrs. & $288	1,608 hrs. & $57,888	288
(On-going) [9] Maintain evidence of Interpersonal Communication capability [COM–001–2 R7 and R8].	1,180 (DP & GOP)	1	1,180	4 hrs. & $144	4,720 hrs. & $169,920	144

[3] The estimates for cost per response are derived using the following formula: 2017 Average Burden Hours per Response * $76.50 per Hour = Average Cost per Response. The hourly cost figure of $76.50 is the average FERC employee wage plus benefits. We assume for FERC–65, FERC–65A and FERC–65B that respondents earn at a similar rate.

[4] 16 U.S.C. 824o (2012).

[5] 18 CFR 39.5 (2015).

[6] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–725V, MANDATORY RELIABILITY STANDARDS: COM RELIABILITY STANDARDS—Continued

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden and cost per response [7] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1)
(On-going) Maintain evidence of training and assessments [COM–002–4 R2, R4, R5 and R6].	201 (BA, RC & TOP)	1	201	8 hrs. & $288	1,608 hrs. & $57,888	288
(On-going) Maintain evidence of training [COM–002–4 R3 and R6].	1,880 (DP & GOP)	1	1,180	8 hrs. & $288	15,040 hrs. & $541,440.	288
Total			2,762		22,976 hrs. & $827,136.	

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10401 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

[7] The loaded hourly wage figure (includes benefits) is based on the occupational categories for 2016 found on the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*):

Electrical Engineer (Occupation Code: 17–2071): $68.12 (review and documentation).

Office and Administrative Support (Occupation Code: 43–0000): $40.89 ($68.12 + 40.89 = 109.01 ÷ 3 = $36.34. This figure is rounded to $36.00 for use in collection FERC–725V for calculating wage figures in this renewal calculation.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–384–000]

Notice of Request Under Blanket Authorization: Southern Star Central Gas Pipeline, Inc.

Take notice that on April 30, 2018, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 Highway 56, Owensboro, Kentucky 42301, filed in the above referenced docket, a prior notice request pursuant to sections 157.205, 157.208, 157.210, 157.211, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and Southern Star's blanket certificate issued in Docket No. CP82–479–000, for authorization to construct, own, and operate a total of approximately 14.27 miles in seven non-contiguous 20- and 24-inch-diameter pipeline segments, and subsequently to abandon the equivalent existing segments of Line V in Oklahoma and Logan Counties, Oklahoma (Line V Replacement Project). The replacement is required due to the age and condition of the acetylene-welded pipe and to enable in-line assessments of the Line V pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this prior notice request should be directed to Cindy Thompson, Manager, Regulatory, Southern Star Central Gas Pipeline, Inc., 4700 Highway 56, Owensboro, Kentucky 42301, by phone (270) 852–4655, or by email *Cindy.C.Thompson@sscgp.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the 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 EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the NGA (18 CFR 157.205) file a protest to the request. If no protest is filed within

the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's website (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: May 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10399 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–84–000.
Applicants: Antelope Expansion 2, LLC.
Description: Self-Certification of EWG Antelope Expansion 2, LLC.
Filed Date: 5/10/18.
Accession Number: 20180510–5119.
Comments Due: 5 p.m. ET 5/31/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–157–003.
Applicants: Moapa Southern Paiute Solar, LLC.
Description: Compliance filing: Supplement to Notice of Non-Material Change in Status to be effective 5/11/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5084.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–995–001.
Applicants: Southwest Power Pool, Inc.
Description: Tariff Amendment: Amended Filing—Attachment AE Revisions to Clarify Registration of Load to be effective 5/11/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5116.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1172–001
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Amended GIA Santa Ana Storage Project SA No. 1006 to be effective 3/14/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5111.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1219–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2018–05–08_SA 3105 EMI–EMI Substitute GIA (J477) to be effective 3/15/2018.
Filed Date: 5/8/18.
Accession Number: 20180508–5195.
Comments Due: 5 p.m. ET 5/15/18.

Docket Numbers: ER18–1292–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Amended LGIA Desert Quartzite, LLC—Quartz 3 Solar Project—Revised ITCC to be effective 4/4/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5095.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1297–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: Amended LGIA—Revised ITCC Palmdale Energy, LLC to be effective 6/4/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5097.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1562–000.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Order No. 842 Compliance Filing to be effective 5/15/2018.
Filed Date: 5/9/18.
Accession Number: 20180509–5216.
Comments Due: 5 p.m. ET 5/30/18.

Docket Numbers: ER18–1563–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: Revisions to Attachment L—Creditworthiness Procedures to be effective 7/10/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5033.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1564–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Tariff Cancellation: NMPC Cancellation of CRA 2264 with Oneida Indian Nation to be effective 3/30/2017.
Filed Date: 5/10/18.
Accession Number: 20180510–5055.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1565–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 3764; Queue No. Y3–029 to be effective 6/4/2014.
Filed Date: 5/10/18.
Accession Number: 20180510–5067.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1566–000.
Applicants: Essential Power Rock Springs, LLC, PJM Interconnection, L.L.C.
Description: eTariff filing per 1450: Essential Power submits revisions to OATT Att H–23 re Tax Reform EL18–97 to be effective 6/1/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5068.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1567–000.
Applicants: South Carolina Electric & Gas Company.
Description: Compliance filing: Order 842 Attch M and N to be effective 5/15/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5104.
Comments Due: 5 p.m. ET 5/31/18.

Docket Numbers: ER18–1568–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Market Import Service Tariff Revisions to be effective 7/10/2018.
Filed Date: 5/10/18.
Accession Number: 20180510–5163.
Comments Due: 5 p.m. ET 5/31/18.

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 10, 2018.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2018–10397 Filed 5–15–18; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9977–73–OECA]

Applicability Determination Index (ADI) Data System Recent Posting: Agency Applicability Determinations, Alternative Monitoring Decisions, and Regulatory Interpretations Pertaining to Standards of Performance for New Stationary Sources, Emission Guidelines and Federal Plan Requirements for Existing Sources, National Emission Standards for Hazardous Air Pollutants, and the Stratospheric Ozone Protection Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces applicability determinations, alternative monitoring decisions, and regulatory interpretations that EPA has made with regard to the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); the Emission Guidelines and Federal Plan Requirements for existing sources; and/or the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) data system is available on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring website under ''Air'' at: *https://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance.* The letters and memoranda on the ADI may be located by author, date, office of issuance, subpart, citation, control number, or by string word searches. For questions about the ADI or this notice, contact Maria Malave at EPA by phone at: (202) 564–7027, or by email at: *malave.maria@epa.gov.* For technical questions about individual applicability determinations or monitoring decisions, refer to the contact person identified in the individual documents, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions of the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the General Provisions of the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. 40 CFR 60.5 and 61.06. The General Provisions in part 60 also apply to Federal and EPA-approved state plans for existing sources in 40 CFR part 62. See 40 CFR 62.02(b)(2). The EPA's written responses to inquiries on provisions in parts 60, 61 and 62 are commonly referred to as applicability determinations. Although the NESHAP part 63 regulations [which include Maximum Achievable Control Technology (MACT) standards and/or Generally Available Control Technology (GACT) standards] contain no specific regulatory provision providing that sources may request applicability determinations, the EPA also responds to written inquiries regarding applicability for the part 63 regulations. In addition, the General Provisions in part 60 and 63 allow sources to seek permission to use monitoring or recordkeeping that is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). The EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, the EPA responds to written inquiries about the broad range of regulatory requirements in 40 CFR parts 60 through 63 as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping, or reporting requirements contained in the regulation. The EPA's written responses to these inquiries are commonly referred to as regulatory interpretations.

The EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them to the ADI on a regular basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric ozone regulations, contained in 40 CFR part 82. The ADI is a data system on the internet with over three thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS, NESHAP, emission guidelines and Federal Plans for existing sources, and stratospheric ozone regulations. Users can search for letters and memoranda by date, office of issuance, subpart, citation, control number, or by string word searches.

Today's notice comprises a summary of 54 such documents added to the ADI on April 24, 2018. This notice lists the subject and header of each letter and memorandum, as well as a brief abstract of the letter or memorandum. Complete copies of these documents may be obtained from the ADI on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring website under ''Air'' at: *https://www2.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance.*

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on the ADI data system on April 24, 2018; the applicable category; the section(s) and/or subpart(s) of 40 CFR part 60, 61, 62, or 63 (as applicable) addressed in the document; and the title of the document, which provides a brief description of the subject matter.

Also included is an abstract of each document identified with its control number after the table. These abstracts are provided solely to alert the public to possible items of interest and are not intended as substitutes for the contents of the documents. This notice does not change the status of any document with respect to whether it is ''of nationwide scope or effect'' for purposes of CAA section 307(b)(1). For example, this notice does not convert an applicability determination for a particular source into a nationwide rule. Neither does it purport to make a previously non-binding document binding.

ADI Determinations Uploaded on April 24, 2018

Control No.	Categories	Subparts	Title
1600019	NSPS	A, TTTT	Applicability Determination for Stationary Combustion Turbine.
FP00003	Federal Plan	LLL, EEE	Alternative Monitoring Plan at Sewage Sludge Incinerator.
1700003	NSPS	WWW	Alternative Tier 2 Testing Methodology for MSW Landfill.
1700004	NSPS, MACT, NESHAP	Kb, UUUU	Applicability Determination for Two Carbon Disulfide Storage Tanks.

ADI DETERMINATIONS UPLOADED ON APRIL 24, 2018—Continued

Control No.	Categories	Subparts	Title
1700005	NSPS, MACT	Ja, CC	Applicability Determination to Determine if Compliance with 40 CFR 63.670 Triggers 40 CFR 60 NSPS Subpart Ja for Flares.
FP00004	Federal Plan	LLL	Applicability Determination for Sewage Sludge Gasifier.
1700008	NSPS	A, Appen	Relative Accuracy Test Audit Frequency for Carbon Monoxide CEMS.
1700010	NSPS	CCCC, EEEE	Applicability Determination for Gasification Unit.
1700011	Federal Plan, NSPS	GGG, WWW	Request for Removal of Landfill Gas Collection and Control System.
1700012	NSPS	A, J	Applicability Determination for Flare at Hydrogen Reformer Facility.
1700014	NSPS	OOOOa	Applicability Determination for Well Completion Operations.
1700015	NSPS	KKKK	Regulatory Interpretation for Emissions Reporting at Combustion Turbine.
1700016	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide in Temporary Tank Degassing Events at a Refinery.
1700017	NSPS	OOO	Applicability Determination of Nonmetallic Mineral.
1700018	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide and Sulfur Dioxide in Flares and Fuel Gas Combustion Devices at Petroleum Refinery.
1700019	NSPS	Ja	Alternative Monitoring Request for Sulfur Dioxide at Sulfur Recovery Plant.
1700020	NSPS	A, Ja	Alternative Monitoring Plan for CEMS Calibration Gas at a Refinery.
1700021	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide Vapors Combusted in Portable Thermal Oxidizers at Refineries.
1700022	NSPS	J, Ja	Alternative Monitoring Plan and Performance Test Waiver for Hydrogen Sulfide Vapors Combusted in Portable Thermal Oxidizers and Fuel Gas Combustion Devices at Refineries.
1700023	NSPS	Ja	Alternative Monitoring Plan for Hydrogen Sulfide in Vapor Combustion Units at a Refinery.
1700024	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide and Sulfur Dioxide in Flares and Fuel Gas Combustion Devices at a Refinery.
1700025	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide in Mobile Combustion Devices at Refineries.
1700026	NSPS	Ja	Alternative Monitoring Plan for NOx CEMS Span for Heaters at a Refinery.
1700027	NSPS	A, Ja	Alternative Monitoring Plan for Total Reduced Sulfur in Flare System at a Refinery.
1700028	NSPS	NNN, RRR	Alternative Monitoring Plan and Test Waiver for the Olefins Manufacturing Unit and Demethanizer Distillation Column Vents at a Chemical Manufacturing Plant.
1700029	NSPS, NESHAP, MACT	J, UUU	Alternative Monitoring Plan for Wet Gas Scrubber at a Refinery.
1700030	NSPS	Ja	Flare Flow Monitoring Accuracy Requirement for a Refinery.
1700031	NSPS	Ja	Flare Flow Monitoring Accuracy Requirement for a Refinery.
1700032	NSPS	Ja	Flare Flow Monitoring Accuracy Requirement for a Refinery.
1700033	NSPS	Ja	Flare Flow Monitoring Accuracy Requirement for a Refinery.
1700034	NSPS, NESHAP, MACT	Ja, UUU	Alternative Monitoring Plan for Sulfur Dioxide and Oxygen Concentrations at Sulfur Recovery Unit Incinerator at a Refinery.
1700035	NSPS	J, Ja	Alternative Monitoring Plan for Portable Flares and Fuel Gas Combustion Devices During Degassing Operations at a Refinery.
1700036	NSPS	FFF	Performance Test Waiver for Flexible Vinyl and Urethane Coating and Printing Lines.
A170001	Asbestos, NESHAP	M	Applicability Determination for Vermiculite Material in Building Demolition.
M170001	MACT	PPPP	Applicability Determination for Surface Coating Facility.
M170002	MACT	CC	Applicability Determination for Vapor Combustor at a Petroleum Refinery.
M170004	MACT, NESHAP	DDDDD, HHH	Applicability Determination for Glycol Reboiler Heater at Natural Gas Facility.
M170005	MACT	EEE	Alternative Relative Accuracy Procedure for Three Hazardous Waste Liquid Fuel Boilers.
M170006	MACT	PPPP	Alternative Control Device and Monitoring for Plastic Parts and Products Coating Facility.
M170007	MACT	PPPPP	Reconstruction for Test Cells/Stands.
M170008	MACT	CC	Determination for Flare Vent Gas Chromatography Calibration and Configuration at Refinery.
M170009	MACT	UUUUU	Eligibility to Pursue Low Emitting Electric Generating Unit Status under the Mercury Air Toxics Rule.
M170010	MACT, NSPS	ZZZZ, IIII	Applicability Determination for Engines at Pump Station.
M170011	MACT	FFFF, G	Waiver Request for Flow Measurement at a Flare Performance Test.
M170012	MACT	DDDDD	Mercury Site-Specific Fuel Analysis Plans for Boilers and Process Heaters.
M170013	MACT	DDDDD	Alternative Mercury Analysis Breakthrough Request.
M170014	MACT, NESHAP	UUU	Alternative Monitoring for Oxygen Concentration at a Refinery.
M170017	MACT	FFFF, HHHHH	Applicability of MON & MCM rules to Adhesive Processes at 3M.
WDS–146	Woodstoves NSPS	AAA	Regulatory Interpretation for Catalyst Suitable Replacement Procedures.
WDS–147	Woodstoves, NSPS	AAA, QQQQ	Regulatory Interpretation on the Wood Heater Sealing and Certification Requirements.
WDS–148	Woodstoves NSPS	AAA	Applicability Determination for Wood-Burning Sauna Heaters.
Z170001	NESHAP, MACT	X	Applicability Determination for Secondary Lead Smelting Facility.
Z170002	NESHAP	UUUU	Alternative Test and Monitoring Methods for Sulfur Compound Emissions in Process Vents at a Cellulose Manufacturing Facility.

ADI DETERMINATIONS UPLOADED ON APRIL 24, 2018—Continued

Control No.	Categories	Subparts	Title
Z170003	NESHAP	UUU	Alternative Monitoring for Oxygen Concentration in Catalyst Regenerator at a Refinery.

Abstracts

Abstract for [1600019]

Q: Did construction commence on the Portland General Electric (PGE) Carty Generating Facility electric generating unit (EGU) located in Boardman, Oregon when the turn-key contract for construction of the Facility was signed, or later when the contractor began actual onsite construction activities?

A: Pursuant to 40 CFR 60.5(a) and 40 CFR 60.2 definition of ''commence'', EPA determines that PGE's construction commenced on June 3, 2013, when PGE entered into a contractual obligation construction of the Carty Generating Facility.

Abstract for [FP00003]

Q1: Does the EPA approve Lynn Water and Sewer Commission's (Lynn's) request to use site-specific control technology and monitoring parameters for the granular activated carbon adsorption system used to control mercury emissions from the sewage sludge incinerator (SSI), subject to the 40 CFR part, subpart MMMM, Emissions Guidelines and Compliance Timelines for Existing Sewage Sludge Incineration (SSI) Units, and located in Lynn, Massachusetts? The SSI is expected to be subject to the federal standards to be promulgated under 40 CFR part 62 subpart LLL, Federal Plan Requirements for Sewage Sludge Incineration Units Constructed on or Before October 14, 2010.

A1: Yes. The EPA approves Lynn's site-specific mercury emission control and monitoring plan for the carbon adsorber. SSIs located in states that did not develop plans by March 21, 2016, as required by subpart MMMM, will be subject to the Federal plan requirements of Subpart LLL, until such time as the state develops a plan that is approved by EPA. Moreover, the Clean Air Act at 42 U.S.C. 7429(f)(2) states that performance standards for existing SSIs shall be in effect no later than five years after the date the emission guidelines were promulgated, that is by March 21, 2016.

Q2: Does the EPA approve Lynn's request for an Alternative Monitoring Plan (AMP) for the wet electrostatic precipitator (WESP) used to control particulate from the incinerator?

A2: Yes. The EPA approves Lynn's request for an AMP for the WESP.

Abstract for [1700003]

Q: Does the EPA approve the alternative testing under 40 CFR part 60, subpart WWW (the Landfill NSPS) to allow use of landfill gas flow rate measurements at the header of the voluntary gas collection and control system (GCCS) to calculate annual non-methane organic compound (NMOC) emissions for a Tier 2 test at the Central Sanitary Landfill (CSL) in Pierson, Michigan?

A: No. The EPA does not approve the alternative testing to use the flow rate measurements from the header of the GCCS, unless CSL can verify that the flow rate measured in the header of the GCCS accounts for the total quantity of landfill gas generated by the landfill.

Abstract for [1700004]

Q: Does the EPA determine that the two carbon disulfide (CS2) storage tanks located at the 3M Company (3M) Elyria, Ohio manufacturing plant are regulated under 40 CFR part 60 subpart Kb, Standards of Performance in Volatile Organic Liquid for Storage Vessels (NSPS Kb)? The CS2 storage tanks in question are part of an unloading and storage operation regulated under 40 CFR part 63 subpart UUUU (MACT UUUU), NESHAP for Cellulose Products Manufacturing, and the tanks do not have gaseous emissions.

A: No. The EPA determines that the storage tanks in question that store CS2, a volatile organic liquid, are not regulated under NSPS Kb based on the language in Section VI.G.2 of the EPA memorandum from William Schrock, OAQPS/ESD/OCG to Docket No. A–99–39, Summary of Public Comments and Responses on the Proposed NESHAP for Cellulosic Products Manufacturing, dated February 15, 2002. The two CS2 storage tanks are not the type of storage vessels in terms of their physical siting and operational design that were intended to be regulated under NSPS Subpart Kb, even when these tanks meet the vapor pressure and designed capacity under the NSPS rule. The tanks in question are completely submerged in a common water bath and have no air space within the tanks due to having a water layer above the CS2 layer at all times. Therefore, the tanks do not have direct CS2 gaseous emissions.

Abstract for [1700005]

Q: Does the EPA determine that changes made to the OMD–1 Rail rack flare, located at the Suncor Energy, Inc. petroleum refinery in Commerce City, Colorado, to ensure compliance with 40 CFR part 63 subpart CC, NESHAP from Petroleum Refineries, are considered a modification under 40 CFR part 60 subpart Ja?

A: No. Based on the information provided, the addition of utility supplied natural gas to the OMD–1 Rail rack flare would not be considered a modification for subpart Ja purposes because this flare is not physically connecting any new piping from a ''refinery process unit'', including ''ancillary equipment,'' or a ''fuel gas system'' as those terms are defined in Subpart Ja. Rather, the new piping is adding utility supplied natural gas to vapors from loading racks, Also, the addition of utility supplied natural gas to the OMD–1 Rail rack flare is not increasing the flow capacity of the flare.

Abstract for [FP00004]

Q: Does the EPA determine that 40 CFR part 60 subpart MMMM—Emissions Guidelines and Compliance Timelines for Existing Sewage Sludge Incineration (SSI) Units (SSI EG Rule) applies to a sewage sludge gasifier owned by MaxWest Environmental Systems Inc. (MaxWest) and located in Sanford, Florida?

A: No. EPA determines that the SSI EG Rule, does not apply to the Maxwest sewage sludge gasifier and thermal oxidizer process heater. According to the SSI EG Rule, an SSI unit is an ''enclosed device or devices using controlled flame combustion that burns sewage sludge for the purpose of reducing the volume of sewage sludge by removing combustible matter.'' The MaxWest system has no flame and it is not a sewage sludge incinerator. Next, while the syngas which results from the gasifier is combusted, the SSI EG rule defines sewage sludge as ''solid, semisolid, or liquid residue generated during the treatment of domestic sludge in treatment works.'' Since the syngas is a gas and not a solid, semisolid, or liquid, it does not meet the definition of sewage sludge in the SSI EG rule (even

though it is derived from sewage sludge).

Abstract for [1700008]

Q: Does the EPA approve an alternate Relative Accuracy Test Audit (RATA) frequency for two carbon monoxide (CO) and nitrogen oxides (NOx) Continuous Emissions Monitoring Systems (CEMS) on two turbines located at the Associated Electric Cooperative, Inc. (AECI) Dell Power Plant in Dell, Arkansas?

A: Yes. The EPA approves AECI's request to follow the part 75 RATA frequency requirements for both NOx and CO CEMS, in accordance with similar prior approvals allowing a reduction in RATA frequency requirements for NOx and CO CEMS under part 60 Appendix F. The AECI turbines operate infrequently, and part 60 RATA frequency requirements do not take into account the frequency of the unit operations.

Abstract for [1700010]

Q: Is the proposed pilot gasification unit at the Carbon Black Global LLC (CBG) facility in Dunlap, Tennessee subject to 40 CFR part 60 subpart CCCC (Standards of Performance for Commercial and Industrial Solid Waste Incineration (CISWI NSPS)? The pilot ''scaled-down'' unit will be used to optimize and research the gasification of a variety of carbon-based waste feedstocks for clients. The resultant syngas will be flared.

A: No. The proposed CBG's operation of the pilot unit is not a CISWI unit as defined in § 60.2265 and is therefore not subject to the CISWI NSPS because the resultant syngas will not be in a container when combusted in the flare. While operation of the pilot unit by CBG is not subject to the CISWI NSPS, combustion of syngas produced by the gasification of other wastes, by CBG clients, should be evaluated by the appropriate delegated permitting agency for potential applicability under section 129 or section 112 (in the case of hazardous waste rules).

Abstract for [1700011]

Q1: Does the EPA give permission to remove the Site No. 1, Site No. 2, Fons and Old Wayne landfills' (the Landfills) landfill gas (LFG) gas collection and control system (GCCS) at a Wayne Disposal Inc. (WDI) site in Belleville, Michigan that is subject to the Municipal Solid Waste Landfill Federal Plan at 40 CFR part 62 subpart GGG (Landfill Federal Plan)?

A1: Yes. The EPA grants permission for WDI to cap or remove its LFG GCCS from a specific cell to allow a new hazardous waste landfill cell to overlay it since it has met the approval criteria established at 40 CFR 60.752(b)(2)(v), including: (1) The Landfills are ''a closed landfill[s]; (2) demonstrated that the NMOC gas production rate is less than 50 Mg/yr; and (3) demonstrated that the GCCS has been in operation for at least 15 years, as well as the required removal report is described in 40 CFR 60.757(e). Details behind this decision are included in the EPA determination letter.

Q2: Can a landfill cap and remove its GCCS prior to the 15-year control period if a GCCS was operational prior to the start of the 15-year control period, but not in compliance with the Landfill NSPS and the Landfill Federal Plan design criteria?

A2: No. WDI may cap or remove its GCCS at the remaining Landfills after October 6, 2017, since all conditions per 40 CFR 60.752(b)(2)(v) for landfill closure will be met on that date. A landfill is required to do a performance test when a GCCS is installed to ensure that it is in compliance with the Landfill Federal Plan or Landfill NSPS, whichever is applicable, which is one of the criteria. Once the GCCS is determined to be in compliance with design criteria in the Landfill NSPS and the Federal plan, the 15-year control period begins. Based on the information provided, WDI has not yet satisfied the 15-year requirement and must maintain operation of the GCCS until October 6, 2017.

Abstract for [1700012]

Q1: Does the EPA determine that the purchase order for a flare at the Linde Gas North America hydrogen reformer facility, located in Romeoville, Illinois, signed prior to the applicability deadline for 40 CFR part 60 subpart J, establish that the facility ''commenced construction'' of the flare?

A1: Yes. The signed purchase order established a contractual obligation to construct the flare and therefore the facility had commenced construction prior to the subpart J applicability deadline.

Q2: Does the EPA determine that gas streams routed to the flare for combustion are exempt from the hydrogen sulfide (H2S) emission limit at 40 CFR 60.104(a)(1) if the streams result from startup, shutdown, upset or malfunction of the plant or are due to relief valve leakage or other emergency malfunctions?

A2: Yes. Process upset gases and gases released as a result of relief valve leakage or other emergency malfunctions are exempt from this H2S emission limit.

Q3: Does the EPA determine that the flare is exempt from the sulfur dioxide (SO_2) monitoring requirements at 40 CFR 60.105(a) if the fuel gas streams are ''inherently low in sulfur''?

A3: Yes. Based on the information provided to the EPA about the gas streams directed to the flare, they are inherently low in sulfur and therefore the facility is exempt from the SO_2 monitoring requirements at 40 CFR 60.105(a).

Abstract for [1700014]

Q: Does the EPA determine that well completions performed by CountryMark Energy Resources, LLC (CountryMark) meet the definition of hydraulic fracturing at 40 CFR 60.5430a and are subject to subpart OOOOa?

A: Yes. The EPA determines that CountryMark's operations meet the definition of hydraulic fracturing at 40 CFR 60.5430a, and are therefore subject to applicable requirements of subpart OOOOa, including but not limited to the standards for well affected facilities at 40 CFR 60.5375a. EPA concludes that the formations within the Illinois Basin that CountryMark has identified are considered ''tight formations'' because it is necessary to inject pressurized fluids into the formations to ''increase the flow of hydrocarbons to the wellhead''.

Abstract for [1700015]

Q: Does EPA determine that water and fuel injection data associated with the startup and shutdown of a combustion turbine at the Marshfield Utilities electric power generation facility be included in the 4-hour rolling average calculation used to determine compliance with the nitrogen oxide (NOx) emission limitations for stationary combustion turbines and for reporting excess emissions under 40 CFR part 60 subpart KKKK?

A: Yes. Subpart KKKK requires that all unit operating hours, including periods of startup, shutdown and malfunction be included in the 4-hour rolling average steam or water to fuel ratio calculation in accordance with 40 CFR 60.4335(a) and 40 CFR 60.4375(a), and any excess emissions must be reported under 40 CFR 60.4380(a)(l). However, such excess emissions would not constitute a violation of subpart KKKK if they occurred as a result of startup, shutdown, or malfunction.

Abstract for [1700016]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) to monitor hydrogen sulfide (H2S) in refinery fuel gas during TRiSTAR/Global Vapor Control, Inc.'s (TRiSTAR) temporary vapor control events, such as

tank degassing and cleaning operations subject to 40 CFR part 60 subparts J at refineries in Region 5?

A: Yes. The EPA approves TRiSTAR's AMP at refineries in Region 5 since installing and operating an H2S CMS would be technically impractical due to the short term nature of tank degassing and similar operations.

Abstract for [1700017]

Q: Does the EPA determine that sodium gluconate produced at the PMP Fermentation Products, Inc. facility in Peoria, Illinois is classified as a nonmetallic mineral under NSPS Subpart OOO?

A. Yes. The EPA determines that sodium gluconate meets the definition of nonmetallic mineral established in NSPS subpart OOO.

Abstract for [1700018]

Q: Does the EPA approve an expansion of the previously approved Alternative Monitoring Plan (AMP) for the Flint Hills Resources refinery to monitor hydrogen sulfide (H2S) and sulfur dioxide (SO_2) when using portable flares and fuel gas combustion devices to reduce volatile organic compound (VOC) emissions from vessels and pipes subject to 40 CFR part 60 subpart J or Ja?

A: Yes. The EPA approves that the previously-approved AMP, to monitor H_2S and SO_2 in flares and fuel gas combustion devices used to treat VOC emissions from petroleum refinery storage tank degassing and cleaning operations subject to NSPS subparts J and Ja.

Abstract for [1700019]

Q: Does the EPA approve Calumet Superior's alternative monitoring proposal to use a static default moisture correction to correct the sulfur dioxide CEMS data to a dry basis, for a sulfur recovery plant located in Superior, Wisconsin, subject to 40 CFR part 60 subpart Ja?

A: No. NSPS subpart Ja at 40 CFR 60.l06a(a)(l) and the Performance Specification 2 of Appendix B to part 60 allow for the data to be monitored either on a dry basis, or to be corrected to a dry basis using continuously monitored moisture data.

Abstract for [1700020]

Q: Does the EPA approve a request to reduce the concentrations of the calibration gas and validation standards on the continuous emission monitoring system (CEMS) for several flares subject to 40 CFR part 60 subpart Ja at the Alon USA (Alon) Big Spring refinery located in Big Spring, Texas?

A: Yes. The EPA conditionally approves the request provided that all other requirements of the monitoring procedures of NSPS subpart Ja for total reduced sulfur (TRS) and hydrogen sulfide (H_2S) are followed. The alternative span gases will address safety concerns involving storage, handling, and engineering controls. The EPA conditionally approves a calibration gas concentration range of 0–85 percent for conducting daily drift checks, relative accuracy test audits, and cylinder gas audits, using a mass spectrometer to continuously analyze and monitor H_2S and TRS, provided that Alon conducts linearity analysis on the mass spectrometer once every three years to determine linearity across the entire range of expected concentrations of acid gas vent streams.

Abstract for [1700021]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) for various refineries located in EPA Region 6 and operated by Debusk Service Group to conduct monitoring of hydrogen sulfide (H_2S) emissions, in lieu of installing a continuous emission monitoring system (CEMS), when performing tank degassing and other similar operations controlled by portable, temporary thermal oxidizers, that are subject to 40 CFR part 60 subparts J or Ja?

A: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the H_2S monitoring data furnished, the EPA conditionally approves the AMP. The EPA included proposed operating parameter limits (OPLs) and data which the refineries must furnish as part of the conditional approval. The AMP is only for degassing operations conducted at refineries in EPA Region 6. Separate, similar AMP requests for the same company to conduct degassing operations at refineries in states in other EPA regions must be approved by those EPA regions.

Abstract for [1700022]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) for the two Flint Hills Resources Corpus Christi refineries (Flint Hills Refineries) to conduct monitoring of hydrogen sulfide (H_2S) emissions, in lieu of installing a continuous emission monitoring system (CEMS), when performing tank degassing and other similar operations controlled by portable, temporary thermal oxidizers and other fuel combustion devices that are subject to 40 CFR part 60 subparts J or Ja?

A: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the H_2S monitoring data furnished, EPA conditionally approves a combined AMP for the portable fuel combustion devices used at both refineries. EPA included proposed operating parameter limits (OPLs), and data which the refineries must retain and obtain from contractors, as part of the conditional approval. The AMP is only for the portable fuel combustion devices at the aforementioned Flint Hills Refineries. Separate, similar AMP requests for the same company must be approved by the EPA region.

Abstract for [1700023]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) for monitoring hydrogen sulfide (H_2S) in refinery fuel gas streams at the Magellan Midstream Partners, L.P.'s (Magellan) facility in Corpus Christi, Texas which are subject to 40 CFR part 60 subparts J or Ja?

A: Yes. Based on the information provided by Magellan, the facility uses a vapor combustion unit (VCU) to control emissions from degassing, cleaning, and maintenance activities associated with tanks, vessels, pipes, and LPG trucks. Because the VCU will be used infrequently, and for short periods, installation of an H_2S continuous emission monitoring system (CEMS) as required under NSPS Subpart Ja is not economically feasible. The EPA approves use of colorimetric stain tubes to determine the concentration of H_2S in three fuel gas grab samples prior to entering the VCU. Magellan must record the results of each grab sample, the key activities completed with each operation, and any other relevant information associated with degassing, cleaning, and maintenance activities.

Abstract for [1700024]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) for Flint Hill Resources in Rosemount, Minnesota, to monitor hydrogen sulfide (H_2S) and sulfur dioxide (SO_2) in flares for flares and fuel gas combustion devices used to treat volatile organic compound (VOC) emissions from petroleum refinery storage tank degassing and cleaning operations subject to the New Source Performance Standards for Petroleum Refineries, 40 CFR part 60 subparts J and Ja (NSPS subparts J and Ja)?

A: Yes. The EPA approves an AMP to monitor H_2S and SO_2 in flares for flares and fuel gas combustion devices used to treat VOC emissions from petroleum refinery storage tank degassing and cleaning operations subject to NSPS subparts J and Ja.

Abstract for [1700025]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) for GEM Mobile Treatment Services to monitor hydrogen sulfide (H_2S) in refinery fuel gas during temporary vapor control events subject NSPS Subparts J and Ja, such as tank degassing, at refineries in EPA Region 5?

A: Yes. The EPA approves an AMP to monitor H_2S in refinery fuel gas for mobile combustion devices flares and fuel gas combustion devices used to treat emissions from temporary vapor control events, such as tank degassing. Separate, similar AMP requests for facilities located in other EPA regions must be approved by the appropriate EPA region.

Abstract for [1700026]

Q: Does the EPA approve Flint Hills Resources (FHR) to use a span of 0–50 ppmvd for the nitrogen oxides (NO_X) continuous emission monitoring system (CEMS) at two heaters located at the Pine Ben Refinery located in Saint Paul Minnesota, subject to 40 CFR part 60 subpart Ja?

A: No. EPA disapproves the Alternative Monitoring Proposal to allow the analyzers spans of 0–50 ppmvd as this range does not cover the applicable emission limit of 60 ppmvd. However, the EPA conditionally approves a span of 0–60 ppmvd rather than the 120–180 ppmdv required by 40 CFR 60.107a(c)(1) for the NO_X CEMS. The specific conditions are specified in the EPA response letter.

Abstract for [1700027]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) to reduce the concentration of calibration gas used to perform daily validations and quarterly cylinder gas audits (CGA) of the Total Reduced Sulfur monitor for the flare gas system at the HollyFrontier El Dorado Refining LLC refinery (HFEDR) in El Dorado, Kansas, as required pursuant to 40 CFR 60.13(d) and 40 CFR 60, Appendix F, respectively?

A: Yes. The EPA conditionally approves the HFEDR AMP due to the safety concerns associated with handling gases with high concentrations of hydrogen disulfide (H_2S). The conditions are listed in the EPA determination letter.

Abstract for [1700028]

Q1: Does the EPA approve a waiver of the initial performance test for the Olefins Manufacturing Unit and Demethanizer Distillation Column Vents, at the Eastman Chemical Company, Longview, Texas facility, subject to 40 CFR part 60, Standards of Performance for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations (subpart NNN) and Reactor Processes (subpart RRR)?

A1: Yes. EPA waives the initial performance test for the specific vents associated with the two units, both subject to NSPS Subparts RRR and NNN, as these are being introduced with the primary fuel into a boiler or process heater in accordance with 40 CFR 60.8(b) and as provided for in § 60.704(b)(5) of subpart RRR. To ensure that affected vent streams are routed to appropriate control devices, subpart RRR requires that the facility maintain a schematic diagram of the affected vent streams, collection system(s), fuel systems, control devices, and bypass systems, and include the diagram in the initial report submitted in accordance with 40 CFR 60.705(b).

Q2: Does EPA approve a substitution of NSPS subpart NNN for NSPS subpart RRR as an alternative flow and temperature monitoring for the vent streams associated with two new demethanizer distillation columns?

A2: Yes. The EPA approves the alternative request for meeting subpart RRR in lieu of subpart NNN requirements for testing, monitoring, and recordkeeping for boilers and process heaters, part of the fuel gas system, to comply with the standards of both subparts.

Abstract for [1700029]

Q: Does the EPA re-approve the May 2011 AMP to comply with new opacity requirements for a wet gas scrubbers (WGS) on the Fluid Catalytic Cracking Unit (FCCU) at Motiva's Convent, Louisiana refinery, subject to NSPS subpart J and NESHAP subpart UUU, for continued parametric monitoring of opacity at the WGS in lieu of a Continuous Opacity Monitoring System?

A: Yes. Based on the previously established operating parameter limits for the scrubbers, the EPA agrees that the monitoring provisions of the previously approved AMP were at least as stringent as the new FCCUs requirements in both rules amended December 1, 2015, and therefore re-approves the AMP under the new rules.

Abstract for [1700030]

Q1: Does the EPA find that the Alternative Monitoring Plan (AMP) to modify a flare's flow sensor measurement accuracy during extremely low flow conditions at the Valero Refining Company's Ardmore Refinery in Ardmore, Oklahoma, is still necessary if the flare is a control device subject to 40 CFR 60.107a(f)(1)(ii)?

A1: No. The EPA finds that the AMP is no longer necessary. The Final Rule for the Petroleum Refinery Sector Risk and Technology Review, issued December 1, 2015, amended 40 CFR part 60 subpart Ja to address such conditions for flares equipped with water seals.

Q2: What does the revised rule now require?

A2: 40 CFR 60.107a(g) allows alternative monitoring with pressure sensors for flares that have flow meters which do not have measurement accuracies within ±20 percent over a velocity range of 0.1–1 feet per second (fps) flow rate, or ±5 percent for flow velocities exceeding 1 fps.

Abstract for [1700031]

Q1: Does the EPA find that the Alternative Monitoring Plans (AMPs) to modify the flow sensor measurement accuracy of flares during extremely low flow conditions at the Valero Refining, Texas L.P.'s Corpus Christi West Plant and Corpus Christi East Plant Refineries in Corpus Christi, Texas, are still necessary if the flares are control devices subject to 40 CFR 60.107a(f)(1)(ii)?

A1: No. The EPA finds that the AMPs are no longer necessary. The Final Rule for the Petroleum Refinery Sector Risk and Technology Review, issued December 1, 2015, amended 40 CFR part 60 subpart Ja to address such conditions for flares equipped with water seals.

Q2: What does the revised rule now require?

A2: 40 CFR 60.107a(g) allows alternative monitoring with pressure sensors for flares that have flow meters which do not have measurement accuracies within ±20 percent over a velocity range of 0.1–1 feet per second (fps) flow rate, or ±5 percent for flow velocities exceeding 1 fps.

Abstract for [1700032]

Q1: Does the EPA find that the Alternative Monitoring Plan (AMP) to modify flow sensor measurement accuracy for multiple flares during extremely low flow conditions at the Valero Refining Company's Texas City Refinery in Texas City, Texas, is still necessary, if the flares are control devices subject to 40 CFR 60.107a(f)(1)(ii)?

A1: No. The EPA finds that the AMP is no longer necessary. The Final Rule for the Petroleum Refinery Sector Risk and Technology Review, issued December 1, 2015, amended 40 CFR part 60 subpart Ja to address such conditions for flares equipped with water seals.

Q2: What does the revised rule now require?

A2: 40 CFR 60.107a(g) allows alternative monitoring with pressure sensors for flares that have flow meters which do not have measurement accuracies within ±20 percent over a velocity range of 0.1–1 feet per second (fps) flow rate, or ±5 percent for flow velocities exceeding 1 fps.

Abstract for [1700033]

Q1: Does the EPA find that an Alternative Monitoring Plan (AMP) to modify flow sensor measurement accuracy for multiple flares during extremely low flow conditions at Valero Refining Company's Three Rivers Refinery in Three Rivers, Texas, is still necessary if the flares are control devices subject to 40 CFR 60.107a(f)(1)(ii)?

A1: No. The EPA finds that the AMP is no longer necessary. The Final Rule for the Petroleum Refinery Sector Risk and Technology Review, issued December 1, 2015, amended 40 CFR part 60 subpart Ja to address such conditions for flares equipped with water seals.

Q2: What does the revised rule now require?

A2: 40 CFR 60.107a(g) allows alternative monitoring with pressure sensors for flares that have flow meters which do not have measurement accuracies within ±20 percent over a velocity range of 0.1–1 feet per second (fps) flow rate, or ±5 percent for flow velocities exceeding 1 fps.

Abstract for [1700034]

Q: Does the EPA approve an Alternative Monitoring Plan (AMP) for determining sulfur dioxide (SO_2) and oxygen (O_2) concentrations on a dry basis, using wet basis concentration data from continuous emission monitoring systems (CEMS) at a sulfur recovery unit (SRU) incinerator at the Valero Refining-Meraux LLC (Valero) petroleum refinery, located in Meraux, Louisiana, subject to 40 CFR part 60 subpart Ja and 40 CFR part 63 subpart UUU?

A: Yes. The EPA conditionally approves Valero's AMP on the No. 3 SRU incinerator while the new dry basis SO_2 and O_2 CEMS are installed and commissioned before the AMP expiration date of August 1, 2017. Valero proposed programming the refinery's process control and data acquisition system to perform real time moisture corrections of the vent stream concentrations at the SRU incinerator. The EPA approves Valero's request to use a methodology to mathematically correct the measured wet basis concentrations to dry basis using Equation 2–1, from 40 CFR part 60, Appendix B, Performance Specification 2, and the moisture fraction value from the most recent stack test.

Abstract for [1700035]

Q: Does the EPA approve WRB Refining LP's (WRB) Alternative Monitoring Plan (AMP) for monitoring hydrogen sulfide (H2S) and sulfur dioxide (SO_2) emissions from portable flares and fuel gas combustion devices used to control emissions from storage tank, process unit vessel and piping degassing for maintenance and cleaning events at the Wood River Refinery in Roxana, Illinois refinery subject to 40 CFR part 60 subparts J and Ja?

A: Yes. The EPA conditionally approves WRB's AMP request since it agrees that it is impractical to continuously monitor the H2S in and SO_2 emissions from gases going to portable flares and fuel gas combustion devices during the infrequent and temporary events when storage tanks, process unit vessels and piping are degassed for maintenance and cleaning operations, and approves the AMP. The conditions are specified in the EPA determination letter.

Abstract for [1700036]

Q: Does the EPA grant 3M's request to waive the initial performance testing requirements of 40 CFR part 60 subpart FFF, Standards of Performance for Flexible Vinyl and Urethane Coating and Printing (NSPS subpart FFF) for 3M's 3L and 6L lines at its Hutchinson, Minnesota facility, which are controlled by separate thermal oxidizers?

A: No. The EPA does not waive the initial performance testing requirements for 3M's 3L and 6L lines under NSPS subpart FFF for two reasons. First, the capture and destruction efficiency testing on which 3M wants the waiver to rely were not conducted at the same time. NSPS subpart FFF requires ''a performance test to determine overall VOC control efficiency'' which implies simultaneous testing of both capture efficiency and destruction efficiency at the same time to demonstrate compliance. Second, even if separate testing of capture and destruction efficiency was allowed by NSPS subpart FFF, the tests identified by 3M for demonstrating compliance were conducted years apart (3 and 10 years for the 3L and 6L lines, respectively). Such long time periods between testing cannot provide assurance that compliance was achieved, and cannot provide assurance that operational conditions during each test were identical.

Abstract for [A170001]

Q: Is there a requirement that Wayne County treat vermiculite material containing less than one percent asbestos by Polarized Light Microscopy (PLM) and/or Transmission Electron Microscopy (TEM) as regulated asbestos-containing material (RACM) under 40 CFR part 61 subpart M (Asbestos NESHAP)? The Wayne County Airport demolition of Building 715 involves suspect asbestos-containing material (ACM) consisting of spray-applied fireproofing on the primary roof structure that contains vermiculite.

A: The EPA recommends, but does not require, that the regulated community assume vermiculite material is asbestos-containing material (ACM) and treat it accordingly. However, if vermiculite material is present in building materials at a facility (as either friable or Category I or II nonfriable material that could become regulated), then the facility must be thoroughly inspected and any suspect vermiculite material must be sampled and analyzed like any other suspect asbestos-containing friable or nonfriable material unless it is assumed to be ACM and treated accordingly. Based on the site-specific test results provided by the Wayne County Airport, the spray-applied fire proofing tested at Building 715 is not ACM, and is not subject to the federal Asbestos NESHAP.

Abstract for [M170001]

Q: Does the EPA determine that the Magna DexSys facility in Lansing, Michigan (Lansing facility) is a major source of hazardous air pollutants (HAPs) for purposes of applicability of the NESHAP for Surface Coating of Plastic Parts and Products, at 40 CFR part 63 subpart PPPP?

A: Yes. Based upon the information provided, the EPA determines that Magna DexSys is a major source as defined under Section 112 of the Clean Air Act and is, therefore, subject to the requirements of subpart PPPP. The Lansing facility's permitted xylene emission limits have always been, and are still, above the major source threshold. Furthermore, Magna DexSys lacks the data necessary to calculate uncontrolled HAP emissions at the facility, and there are no federally enforceable physical or operational limitations in place to limit emissions from the facility to less than 10 tons per year for a single HAP or 25 tons per year for any combination of HAP.

Abstract for [M170002]

Q: Does the EPA determine that the vapor combustor in the Plant 2 loading

area at the Suncor Energy Inc. petroleum refinery in Commerce City, Colorado is considered a flare under 40 CFR part 63 subpart CC, NESHAP from Petroleum Refineries, and, therefore, subject to the flare requirements of 40 CFR 63.670 and 63.671?

A: No. The EPA determines that the vapor combustor described in the March 10, 2017 letter does not meet the definition of a flare at 40 CFR 63.641 of subpart CC. Therefore, the vapor combustor is not subject to the requirements in 40 CFR 63.670 and 63.671. However, the combustor needs to be tested, and operating parameters established and monitored, to assure compliance with the subpart CC emission limits.

Abstract for [M170004]

Q: Does the EPA determine that the glycol dehydration unit reboiler at El Paso Natural Gas' southern New Mexico facility, which is subject to the National Emission Standards for Hazardous Air Pollutants for Natural Gas Transmission and Storage Facilities (NESHAP subpart HHH), is also subject to the NESHAP for Industrial, Commercial, and Institutional Boilers and Process Heaters (NESHAP subpart DDDDD)?

A: Yes. The EPA determines that although the glycol dehydration reboiler is subject to NESHAP subpart HHH, the reboiler is also subject to NESHAP subpart DDDDD. The reboiler is considered a process heater subject to NESHAP subpart DDDDD because the gaseous fuel fired to the unit is not regulated under another subpart, and the exhaust gas from the reboiler combustion chamber is uncontrolled (*i.e.* the emissions vent directly to atmosphere). The EPA noted that process vent standards under NESHAP subpart HHH only apply to the dehydrator reboiler still vent and flash tank emissions. A flare is the control device for these emissions under NESHAP subpart HHH. However, NESHAP subpart HHH does not apply to the reboiler combustion chamber emissions because the reboiler itself is not a control device being used to comply with another NESHAP (in this case, subpart HHH).

Abstract for [M170005]

Q: Does EPA approve a request for an alternative relative accuracy (RA) procedure for three hazardous waste liquid fuel boilers at Vertellus Agriculture & Nutrition Specialties, LLC (Vertellus), in Indianapolis, Indiana, subject to 40 CFR part 266 subpart H (the Boilers and Industrial Furnaces Rule or BIF rule) and 40 CFR part 63 subpart EEE, the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors (HWC MACT)?

A: Yes. EPA concludes that Vertellus may use the alternative RA procedure in the context of either the BIF Rule or the HWC MACT. The EPA previously approved the use of the alternative RA procedure in Appendix IX of 40 CFR part 266 for the hazardous waste liquid fuel boilers under the BIF rule at Vertellus. The EPA believes that the alternative RA procedures in Appendix A of the HWC MACT are acceptable procedures for a hazardous waste burning liquid fuel boiler.

Abstract for [M170006]

Q: Does EPA approve the use of the 'R Boiler' as an alternative control device to comply with the ''emission rate with add-on controls'' compliance option under 40 CFR part 63 subpart PPPP (the NESHAP for Surface Coating of Plastic Parts and Products) for two plastic parts and products coating production lines at the SABIC Innovative Plastics Mt. Vernon, LLC (SABIC) facility in Mt. Vernon, Indiana?

A: Yes. Based on the information provided by SABIC, and the fact that SABIC intends to conduct a performance test to determine the organic HAP destruction efficiency of the 'R Boiler', the EPA approves SABIC's request for this boiler to serve as an add-on control device under the NESHAP for Surface Coating of Plastic Parts and Products since it is consistent with the subpart PPPP MACT requirements for demonstrating continuous compliance thermal oxidizer as a control device.

Abstract for [M170007]

Q1: Does the EPA determine that Caterpillar Inc.'s (Caterpillar's) existing test cells/stands at its Lafayette facility are a reconstructed affected source under 40 CFR part 63 subpart PPPPP?

A1: No. EPA determines that many of the test cells/stands components that were added or replaced were not linked together by a single planning decision, and therefore cannot be aggregated together as a single project. The cost of Caterpillar's component replacements or component additions to the affected source that could conceivably be aggregated together are well below the 50% of the cost of constructing a new comparable facility.

Q2: Has the EPA further defined the terms ''passive measurement and control limitations'' as used in subpart PPPPP?

A2: The EPA has not provided further definition of these terms since promulgating the subpart PPPPP rule in 2003. However, the cost of passive measurement and control instrumentation and electronics is excluded from affected source reconstruction calculations as explained in 40 CFR 63.9290.

Abstract for [M170008]

Q1: Does the EPA approve the use of either of the calibration options provided at 40 CFR 63.671(e)(2)(i) or (ii) under the National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries at 40 CFR part 63, subpart CC (NESHAP subpart CC) for its gas chromatograph (GC), if the current configuration of the GC does not allow it to identify 1,3 butadiene? The Calumet Superior, LLC. refinery plant in Superior, Wisconsin (Calumet) uses a gas chromatograph (GC) to monitor the flare vent gas composition to assess compliance with the operating limits in 40 CFR 63.670(e).

A1: No. 40 CFR 63.671(e)(2)(i) of NESHAP subpart CC is not an option because the current flare vent gas GC configuration does not allow it to identify 1,3 butadiene. Therefore, Calumet can only use the calibration option provided at 40 CFR 63.671(e)(2)(ii) since it allows the use of a surrogate calibration gas to cover all compounds in the flare vent gas stream.

Q2: Does the EPA determine that the current configuration of the flare vent GC that does not allow it to identify 1,3 butadiene meets the requirements of the NESHAP subpart CC to assess compliance with the operating limits in 40 CFR 63.670(e)? Calumet has collected and analyzed flare vent gas samples for 1,3 butadiene. The results of this sampling detected 1, 3 butadiene at concentrations levels below the threshold expected to have an impact on the net heating value of the flare vent gas in the combustion zone.

A2: Yes. Based on the information Calumet provided and pursuant to 40 CFR 63.670(j)(1) and 63.67l(e), the EPA determines that the current configuration of the flare vent gas GC meets the requirements of the NESHAP subpart CC.

Abstract for [M170009]

Q: The Michigan South Central Power Agency's Endicott Generating Station (Endicott) has a source with an emergency scrubber bypass duct subject to the Mercury Air Toxics Standards (MATS) at 40 CFR part 63 subpart UUUUU. Is this source eligible to pursue Low Emitting electric utility steam generating unit (LEE) status for sulfur dioxide (S02) emissions in accordance with 40 CFR 63.10000?

A: Yes. In accordance with the technical corrections to MATS promulgated in April 2016, Endicott may pursue LEE status for its source. Pursuant to 40 CFR 63.10000(c)(1)(i)(C)(1), if a source's control device bypass emissions are measured in the bypass stack or duct or the source's control device bypass exhaust is routed through the electric utility steam generating unit main stack so that emissions are measured during the bypass event, then the source may pursue LEE status.

Abstract for [M170010]

Q: Does the EPA determine that the replacement pump engines at the Lake Borgne Basin Levee District in St. Bernard Parish, Louisiana are existing emergency stationary Reciprocating Internal Combustion Engines (RICE) that are not subject to 40 CFR part 63 subpart ZZZZ?

A: No. Based upon the information provided and the description of the engine use, the EPA determines that the engines at the Lake Borgne Pump Station do not meet the definition of existing emergency stationary RICE at 40 CFR 63.6675. Since construction or reconstruction of the stationary engines began after June 12, 2006, and the engines are located in an area source of emissions, the engines are subject to 40 CFR part 60 subpart IIII (Compression Ignition NSPS).

Abstract for [M170011]

Q: Does the EPA approve a waiver of the volumetric flow rate determination required as part of the performance test for a flare under 40 CFR part 63 subparts G and FFFF at the Lyondell Chemical (Lyondell) Bayport Choate Plant (Plant) in Pasadena, Texas?

A: Yes. The EPA conditionally approves a waiver of the requirement to determine the volumetric flow rate using EPA Method 2 during initial performance testing of a flare at the Plant. The volumetric flow rate can be calculated using existing flow measurement devices upstream of the flare and estimated flows based on process knowledge from all minor streams that may be routed to the flare on an interim basis. Lyondell must install flow meters for the flare and must demonstrate compliance with flare exit velocity requirements using the approved process-based engineering calculation protocol for volumetric flow rate.

Abstract for [M170012]

Q: Does EPA approve site specific fuel analysis plans to be conducted in accordance with approved EPA Method 30 at Union Carbide Corporation's Hahnville, Louisiana facility, for the purpose of determining mercury levels to classify boiler and heater fuel sources as Other Gas 1 or 2 under 40 CFR part 63 subpart DDDDD?

A: Yes. Based on the information submitted, the EPA approves the fuel analysis plans.

Abstract for [M170013]

Q: Does the EPA approve SABIC Innovative Plastics' (SABIC's) request to replace EPA Method 30B mercury analysis breakthrough Quality Assurance/Quality Control (QA/QC) requirements with Relative Accuracy Test Audit (RATA) criteria and/or waive the breakthrough QA/QC for a test conducted in April 2016, for the purposes of complying with 40 CFR part 60 subpart DDDDD?

A: No. The EPA does not approve SABIC's request. There are substantive reasons why the criteria are different for compliance testing versus RATA testing. The EPA does find however, that while the breakthrough criterion was not met in several instances during the tests, it appears that the remaining data quality objectives were met and there is no reason to reject the QA/QC data.

Abstract for [M170014]

Q: Does the EPA approve Calumet Superior, LLC's (Calumet's) alternative monitoring request to maintain the hourly oxygen concentration in the exhaust gas from the catalyst regenerator at or above one percent by volume on a wet basis, as opposed to a dry basis as required by 40 CFR 63 subpart UUU at the Superior, Wisconsin refinery?

A: Yes. The EPA approves Calumets' alternative monitoring request for use of wet basis analyzer readings to demonstrate compliance with the one percent by volume oxygen concentration limit in 40 CFR 63.1565(a)(5)(ii) for periods of startup, shutdown, and hot standby. Calumet provided information that indicates catalyst fines can plug an analyzer that measures on a dry basis. In addition, the oxygen concentration on a wet basis will always yield a lower reading versus a dry basis oxygen reading.

Abstract for [M170017]

Q1: Are Processes 1, referred to as ''adhesive compounding'', located at the 3M's Hutchinson, Minnesota (''Hutchinson'') and Knoxville, Iowa (''Knoxville'') facilities subject to the 40 CFR part 63, subpart FFFF, the Miscellaneous Organic Chemical Manufacturing (MON rule) or 40 CFR part 63, subpart HHHHH, the Miscellaneous Coating Manufacturing (MCM rule) at MCM when the adhesive compound is shipped off-site?

A1: The MON rule applies to Processes 1 when the adhesive compound is shipped off-site. The MCM does not apply to Process 1 when the adhesive compound is shipped off-site. Process 1 is a miscellaneous organic chemical manufacturing process that produces an adhesive product classified by NAICS 325, and process or uses organic HAP, and is therefore a process that is contemplated by 63.2435(b).

Q2: Are Processes 2, referred to as ''mogul based adhesive compounding'', located at the 3M's Hutchinson and Knoxville facilities subject to the MON or the MCM when the mogul based adhesive compound is shipped off-site?

A2: The MON applies to Processes 2 when the mogul based adhesive compound is shipped off-site. The MCM does not apply to Processes 2 when the mogul based adhesive compound is shipped off-site. 3M described the first step which involves a chemical reaction of non-HAP containing raw materials. The first step is completed by quenching the reaction, without storage after the first step. The second step, HAP containing raw materials were added to the same vessel with the material from the first step. Because there is no storage after step 1, we believe that both steps of Process 2 are part of one miscellaneous organic chemical manufacturing process to produce a product described by NAICS 325.

Q3: Are Processes 1 and 2 located at the 3M's Hutchinson and Knoxville facilities exempt from the MON as ''affiliated operations'' when making the adhesive compound and mogul based adhesive compound, respectively, at the same facility that is subject to Subpart JJJJ (POWC)?

A3: Yes. Processes 1 and 2 meet the exemption for affiliated operations under the MON when making the adhesive and mogul based adhesive, respectively, at the same facility where they are used in a POWC affected facility. The definitions of affiliated operations in both the MON and the preamble to the POWC contain the broad language to define the exemption. Therefore, we interpret these broad terms to include the actual production of the product that meets the definition of ''coating'' under the rule.

Abstract for [WDS–146]

Q: Blaze King Industries Incorporated is seeking EPA clarification on the steps for adequately demonstrating replacement catalyst equivalency for catalyst-equipped wood heaters subject to the 2015 Standards of Performance

for New Residential Wood Heaters, New Residential Hydronic Heaters, and Forced-Air Furnaces, (40 CFR part 60 subpart AAA) (2015 NSPS Standards).

A: The 2015 NSPS standards requires that, to have a catalyst deemed suitable for replacement, equivalency testing be conducted by an EPA-approved test laboratory. Consistent with the 2015 Standards, the manufacturer must notify the EPA of the date that certification testing (catalyst equivalency testing) is scheduled to begin as stated in 40 CFR 60.534(g). This notice must be received by the EPA at least 30 days before the start of testing.

Abstract for [WDS–147]

This letter is in response to the three November 20, 2015 letters (which the EPA is consolidating into one response) from OMNI-Test Laboratories, Inc. (OMNI) requesting clarification of several issues under 2015 Standards of Performance for New Residential Wood Heaters (subpart AAA) and New Residential Hydronic Heaters and Forced-Air Furnaces (subpart QQQQ) (collectively referred to as the ''2015 NSPS Standards'')

Q1: Do the 2015 NSPS Standards allow unsealing of a wood heater, for which a full certification test series has not been completed, for further testing?

A1: The 2015 NSPS Standards do not specifically allow for unsealing of a wood heater for which a test laboratory has suspended a compliance test. However, EPA interprets some sections of the 2015 NSPS Standards to allow the unsealing of a wood heater for the purpose of further testing in specific circumstances.

Q2: Can the manufacturer provide new parts or make simple modifications to the sealed wood heater in lieu of making and shipping a new prototype?

A2: Yes. However, the wood heater must remain sealed until the operation and test data obtained from the suspended test is submitted and reviewed by the EPA.

Q3: Does a wood heater that has undergone an incomplete test certification have to be sealed and archived in perpetuity?

A3: No. However, when the wood heater is sealed per 40 CFR 60.535(a)(2)(vii) and 60.5477(a)(2)(vii), the wood heater must remain sealed until the operation and test data obtained from the suspended test is submitted and reviewed by the EPA.

Q4: What are the certification requirements under 40 CFR 60.533(e)?

A4: As provided in 40 CFR 60.533(e), the EPA may issue a conditional, temporary certificate of compliance to a manufacturer if they submit a full test report and a complete application.

Q5: Are the certifications of conformity that an EPA-accredited test laboratory submits to the EPA ''de facto temporary certificates of compliance'' because they are not required for the EPA to issue a temporary certificate of compliance to a manufacturer?

A5: No. As provided in 40 CFR 60.533(e), a conditional, temporary certificate of compliance may only be granted by the EPA provided that the manufacturer submits a complete certification application that meets all the requirements in 40 CFR 60.533(b).

Q6: Does submission of a certificate of conformity with a complete certification package (*i.e.,* application and full test report), prior to May 16, 2016, make a manufacturer requesting certification ineligible to receive a temporary certificate of compliance?

A6: No. The manufacturer may receive a conditional, temporary certificate of compliance under 40 CFR 60.533(e) until the EPA's review of the application is complete.

Q7: What are the requirements for quality assurance audits for model lines that are deemed certified under 40 CFR 60.533(h)(1)?

A7: As provided in 40 CFR 60.533(m), ''the manufacturer of a model line with a compliance certification under paragraph (h)(1) of this section must conduct a quality assurance program that satisfies the requirements of this paragraph (m) by May 16, 2016.''

Q8: Are manufacturers required to contract the services of a third-party certifier to conduct quality assurance audits?

A8: Yes. Manufacturers are required by 40 CFR 60.533(m) to contract the services of a third-party certifier to conduct quality assurance audits.

Q9: What are the requirements for deemed certified wood heaters under 40 CFR 60.533(m)?

A9: As provided in 40 CFR 60.533(m), by May 16, 2016, manufacturers must have in place a quality assurance program that satisfies the requirements under 40 CFR 60.533(m)(1) through (5).

Q10: Does a certificate of compliance issued prior to May 15, 2015, at an emission level less than or equal to the 2015 emission standard need to be renewed before May 15, 2020?

A10: No. Manufacturers of model lines that are deemed certified per 40 CFR 60.533(h)(1) and for which a certificate of compliance has been issued prior to May 15, 2015, showing an emission level less than or equal to the 2015 emission standards, do not need to renew their certificates until May 15, 2020.

Abstract for [WDS–148]

Q: Does EPA determine that the wood heater regulations at 40 CFR part 60 subparts AAA apply to the wood-burning sauna heaters manufactured by Harvia Oy?

A: No. Based upon the information provided and the specific circumstances described in Harvia Oy's letters to the EPA, the EPA determines that the wood heater subpart AAA standards do not apply to Harvia Oy's wood-burning sauna heaters since these do not meet the definition of wood heaters. The sauna heaters are intended to heat the sauna room only and not to be used for residential heating.

Abstract for [Z170001]

Q: Does the EPA determine that the Exide Technologies secondary lead smelting facility in Vernon, CA, which has been permanently shut down and is being dismantled, is subject to 40 CFR part 63 subpart X?

A: No. The EPA determines that the facility is no longer a ''secondary lead smelter'' for purposes of subpart X because it can no longer physically or legally operate as a secondary lead smelter. In addition, the California Department of Toxic Substances Control (DTSC) approved Exide's Final Closure Plan on December 8, 2016.

Abstract for [Z170002]

Q: Does the EPA approve Futamura USA, Incorporated's (Futamura's) request to use an alternative test method using a mass spectrometer (MS) continuous emissions monitoring system (CEMS) to measure specific sulfur compound emissions from process vents on the cellulose manufacturing process and alternative monitoring method that would eliminate the need to collect and report carbon disulfide (CS2) Recovery Plan operating data based on the availability of the emissions data from the proposed MS CEMS to demonstrate compliance with the National Emission Standards for Hazardous Air Pollutants for Cellulose Products Manufacturing (NESHAP subpart UUUU), at its Tecumseh, Kansas facility?

A: Yes. Based on the information provided, the EPA conditionally grants temporary approval for the alternative test method and monitoring method to allow Futamura to demonstrate the ability to document compliance with NESHAP UUUU by using a MS CEMS. This temporary approval expires one year from June 16, 2017. At least 60 days prior to this expiration date, Futamura is required to make a request to EPA for continue and permanent use

of the CS. In addition, the CS CEMS needs to successfully pass the required relative accuracy test audit (RATA) and meet additional conditions outline in the determination letter for EPA approval.

Abstract for [Z170003]

Q: Does the EPA approve BP Product North America's (BP) alternative monitoring request to maintain the hourly oxygen concentration in the exhaust gas from the catalyst regenerator at or above one percent by volume on a wet basis, as opposed to a dry basis as required by 40 CFR 63 subpart UUU at the Whiting, Indiana refinery?

A: Yes. The EPA approves the request to maintain the hourly oxygen concentration in the exhaust gas from the catalyst regenerator at or above one percent by volume on a wet basis during periods of startup, shutdown, and hot standby. BP provided information that indicates catalyst fines can plug an analyzer that measures on a dry basis. In addition, the oxygen concentration on a wet basis will always yield a lower reading versus a dry basis oxygen reading.

Dated: May 7, 2018.

David A. Hindin,

Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 2018–10463 Filed 5–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9977–09–OECA]

National Environmental Justice Advisory Council; Notification of Public Teleconference and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will meet on the dates and times described below. All meetings are open to the public. Members of the public are encouraged to provide comments relevant to the specific issues being considered by the NEJAC. For additional information about registering to attend the meeting or to provide public comment, please see **Registration** under **SUPPLEMENTARY INFORMATION**. Due to a limited number of telephone lines, attendance will be on a first-come, first served basis. Pre-registration is required.

DATES: The NEJAC will convene a Thursday, May 31, 2018, starting at 3:30 p.m., Eastern Time. The meeting discussion will focus on several topics including, but not limited to, the discussion and deliberation of the final report from the NEJAC Youth Perspectives on Climate Change Work Group. One public comment period relevant to the specific issues being considered by the NEJAC (see **SUPPLEMENTARY INFORMATION**) is scheduled for Thursday, May 31, 2018, starting at 5:00 p.m., Eastern Time. Members of the public who wish to participate during the public comment period are highly encouraged to pre-register by 11:59 p.m., Eastern Time on Monday, May 28, 2018.

FOR FURTHER INFORMATION CONTACT: Questions or correspondence concerning the public meeting should be directed to Karen L. Martin, U.S. Environmental Protection Agency, by mail at 1200 Pennsylvania Avenue NW (MC2201A), Washington, DC 20460; by telephone at 202–564–0203; via email at *martin.karenl@epa.gov;* or by fax at 202–564–1624. Additional information about the NEJAC is available at *https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council.*

SUPPLEMENTARY INFORMATION: The Charter of the NEJAC states that the advisory committee ''will provide independent advice and recommendations to the Administrator about broad, crosscutting issues related to environmental justice. The NEJAC's efforts will include evaluation of a broad range of strategic, scientific, technological, regulatory, community engagement and economic issues related to environmental justice.''

Registration

Registration for the May 31, 2018, public teleconference will be processed at *https://nejac-may-31-2018-public-teleconference.eventbrite.com.* Pre-registration is required. Registration for the May 31, 2018, meeting closes at 11:59 p.m., Eastern Time on Monday, May 28, 2018. The deadline to sign up to speak during the public comment period, or to submit written public comments, is 11:59 p.m., Eastern Time on Monday, May 28, 2018. When registering, please provide your name, organization, city and state, email address, and telephone number for follow up. Please also indicate whether you would like to provide public comment during the meeting, and whether you are submitting written comments before the Monday, May 28, 2018, deadline.

A. Public Comment

Individuals or groups making remarks during the public comment period will be limited to seven (7) minutes. To accommodate the number of people who want to address the NEJAC, only one representative of a particular community, organization, or group will be allowed to speak. Written comments can also be submitted for the record. The suggested format for individuals providing public comments is as follows: Name of speaker; name of organization/community; city and state; and email address; brief description of the concern, and what you want the NEJAC to advise EPA to do. Written comments received by registration deadline, will be included in the materials distributed to the NEJAC prior to the teleconference. Written comments received after that time will be provided to the NEJAC as time allows. All written comments should be sent to Karen L. Martin, EPA, via email at *martin.karenl@epa.gov.*

B. Information About Services for Individuals With Disabilities or Requiring English Language Translation Assistance

For information about access or services for individuals requiring assistance, please contact Karen L. Martin, at (202) 564–0203 or via email at *martin.karenl@epa.gov.* To request special accommodations for a disability or other assistance, please submit your request at least fourteen (14) working days prior to the meeting, to give EPA sufficient time to process your request. All requests should be sent to the address, email, or phone/fax number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: April 25, 2018.

Matthew Tejada,

Designated Federal Officer, National Environmental Justice Advisory Council.

[FR Doc. 2018–09556 Filed 5–15–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[CWA–05–2016–0014; FRL–9977–83–OARM]

Notice of Order Denying Petition To Set Aside Consent Agreement and Proposed Final Order

AGENCY: Office of Administrative Law Judges, Environmental Protection Agency (EPA).

ACTION: Notice of order denying petition to set aside consent agreement and proposed final order.

SUMMARY: In accordance with section 309(g)(4)(C) of the Clean Water Act (CWA or Act), notice is hereby given that an Order Denying Petition to Set Aside Consent Agreement and Proposed Final Order has been issued in the matter styled as *In the Matter of BP Products North America Inc.,* Docket No. CWA–05–2016–0014. This document serves to notify the public of the denial of the Petition to Set Aside Consent Agreement and Proposed Final Order filed in the matter and explain the reasons for such denial.

ADDRESSES: To access and review documents filed in the matter that is the subject of this document, please visit *https://yosemite.epa.gov/oarm/alj/alj_web_docket.nsf/Dockets/CWA-05-2016-0014*.

FOR FURTHER INFORMATION CONTACT: Jennifer Almase, Attorney-Advisor, Office of Administrative Law Judges (1900R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW; telephone number: (202) 564–6255 (main) or (202) 564–1170 (direct); fax number: (202) 565–0044; email address: *oaljfiling@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

Section 309(g)(1)(A) of the CWA empowers EPA to assess an administrative civil penalty whenever on the basis of any information available EPA finds that a person has violated certain sections of the Act or any permit condition or limitation implementing any such section in a permit issued under section 402 or 404 of the Act (33 U.S.C. 1319(g)(1)(A)). However, before issuing an order assessing an administrative civil penalty under section 309(g), EPA is required by the CWA and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Rules of Practice) to provide public notice of and reasonable opportunity to comment on the proposed issuance of such order (33 U.S.C. 1319(g)(4); 40 CFR 22.45(b)(1)).

Any person who comments on the proposed assessment of a penalty is then entitled to receive notice of any hearing held under section 309(g) of the CWA and at such hearing is entitled to a reasonable opportunity to be heard and to present evidence (33 U.S.C. 1319(g)(4)(B); 40 CFR 22.45(c)(1)). If no hearing is held before issuance of an order assessing a penalty under section 309(g) of the CWA, such as where the administrative penalty action in question is settled pursuant to a consent agreement and final order, any person who commented on the proposed assessment may petition to set aside the order on the basis that material evidence was not considered and to hold a hearing on the penalty (33 U.S.C. 1319(g)(4)(C); 40 CFR 22.45(c)(4)(ii)).

The CWA requires that if the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator shall immediately set aside such order and provide a hearing in accordance with section 309(g)(33 U.S.C. 1319(g)(4)(C)). Conversely, if the Administrator denies a hearing, the Administrator shall provide to the petitioner, and publish in the **Federal Register**, notice of and reasons for such denial. *Id.*

Pursuant to section 309(g) of the CWA, the authority to decide petitions by commenters to set aside final orders entered without a hearing and provide copies and/or notice of the decision has been delegated to Regional Administrators in administrative penalty actions brought by regional offices of EPA. Administrator's Delegation of Authority 2–52A (accessible at: *http://intranet.epa.gov/ohr/rmpolicy/ads/dm/2-52A.pdf*). The Rules of Practice require that where a commenter petitions to set aside a consent agreement and final order in an administrative penalty action brought by a regional office of EPA, the Regional Administrator shall assign a Petition Officer to consider and rule on the petition (40 CFR 22.45(c)(4)(iii)). Upon review of the petition and any response filed by the complainant, the Petition Officer shall then make written findings as to (A) the extent to which the petition states an issue relevant and material to the issuance of the consent agreement and proposed final order; (B) whether the complainant adequately considered and responded to the petition; and (C) whether resolution of the proceeding by the parties is appropriate without a hearing (40 CFR 22.45(c)(4)(v)).

If the Petition Officer finds that a hearing is appropriate, the Presiding Officer shall order that the consent agreement and proposed final order be set aside and establish a schedule for a hearing (40 CFR 22.45(c)(4)(vi)). Conversely, if the Petition Officer finds that resolution of the proceeding without a hearing is appropriate, the Petition Officer shall issue an order denying the petition and stating reasons for the denial (40 CFR 22.45(c)(4)(vii)). The Petition Officer shall then file the order with the Regional Hearing Clerk, serve copies of the on the parties and the commenter, and provide public notice of the order. *Id.*

II. Procedural Background

In May of 2016, the Director of the Water Division of EPA's Region 5 (Complainant) and BP Products North America Inc. (Respondent) executed a Consent Agreement and Final Order (CAFO) in the matter styled as *In the Matter of BP Products North America Inc.,* Docket No. CWA–05–2016–0014.[1] The CAFO sought to simultaneously commence and conclude an administrative penalty action under section 309(g) of the CWA against Respondent for alleged violations found by EPA during an inspection of Respondent's petroleum refinery located at 2815 Indianapolis Boulevard in Whiting, Indiana (Facility), conducted from May 5 through May 9, 2014. Under the terms of the CAFO, Respondent admitted the jurisdictional allegations set forth in the CAFO but neither admitted nor denied the factual allegations and alleged violations. Nevertheless, Respondent waived its right to a hearing or to otherwise contest the CAFO, and agreed to pay a civil penalty in the amount of $74,212. On May 31, 2016, Complainant and Respondent also entered into an Administrative Consent Order that incorporated a Compliance Plan setting forth the measures Respondent had already taken, as well as those it agreed it would take in the future, in response to the alleged violations.

On or about June 1, 2016, EPA provided public notice of its intent to file the proposed CAFO and accept public comments thereon. Carlotta Blake-King, Carolyn A. Marsh, Debra Michaud, and Patricia Walter (Petitioners) timely filed comments on the proposed CAFO (Comments). Complainant subsequently prepared a Response to Comments Regarding Proposed CAFO (Response to Comments), which indicated that EPA would not be altering the proposed CAFO. The Response to Comments was mailed to Petitioners, together with a copy of the proposed CAFO, on or about January 13, 2017, and each Petitioner received the materials by January 30, 2017. On or about February 24, 2017, Petitioners timely filed a joint petition seeking to set aside the proposed CAFO

[1] While titled jointly, the Final Order is actually a separate document, drafted to be signed solely by Region 5's Acting Regional Administrator. It is the execution of the Final Order and its subsequent filing with the Regional Hearing Clerk at Region 5 that will effectuate the parties' Consent Agreement and conclude the proceeding.

and have a public hearing held thereon (Petition).

A Request to Assign Petition Officer (Request) was issued by Region 5's Acting Regional Administrator on May 17, 2017, and served on Petitioners on May 30, 2017. In the Request, the Acting Regional Administrator stated that after considering the issues raised in the Petition, Complainant had decided not to withdraw the CAFO. Accordingly, the Acting Regional Administrator requested assignment of an Administrative Law Judge to consider and rule on the Petition pursuant to § 22.45(c)(4)(iii) of the Rules of Practice, 40 CFR 22.45(c)(4)(iii). By Order dated June 16, 2017, the undersigned was designated to preside over this matter, and Complainant was directed to file a response to the Petition. Complainant filed its Response to Petition to Set Aside Consent Agreement and Proposed Final Order (Response to Petition) on July 13, 2017.

III. Denial of Petitioners' Petition

On May 8, 2018, the undersigned issued an Order Denying Petition to Set Aside Consent Agreement and Proposed Final Order (Order). Therein, the undersigned denied the Petition without the need for a hearing on the basis that Petitioners had failed to present any relevant and material evidence that had not been adequately considered and responded to by Complainant.

Specifically, Petitioners raised four issues.[2] First, Petitioners argued that the alleged violations warranted a higher civil penalty than that assessed in the proposed CAFO and that the occurrence of the alleged violations in a region designated as an Area of Concern warranted an additional penalty of five million dollars. The undersigned determined that while Complainant did not provide a detailed explanation of how the civil penalty assessed in the proposed CAFO had been calculated, it had considered and responded to Petitioners' arguments in its Response to Comments and Response to Petition. The undersigned further found that Petitioners had produced no evidence to support their position or rebut Complainant's position that it had properly implemented the applicable policy governing its calculation and negotiation of the penalty assessed in the proposed CAFO. The undersigned concluded that Petitioners had not met the burden of demonstrating that the matters they raised with respect to the assessment of a higher penalty constituted material and relevant evidence that Complainant failed to consider in agreeing to the proposed CAFO. Thus, Petitioners' claim in this regard was denied.

Second, Petitioners urged that a Supplemental Environmental Project (SEP) be incorporated into the proposed CAFO and that local residents be included in the distribution of funds for SEP projects. The undersigned found that as Complainant had stated in its Response to Comments and Response to Petition, EPA lacks the legal authority to demand a SEP or control the distribution of civil penalty funds. The undersigned concluded that given this lack of authority, the issues raised by Petitioners with regard to a SEP were immaterial to the issuance of the proposed CAFO. Thus, this claim was denied.

Third, Petitioners urged that an independent advisory committee and environmental monitoring program for Respondent's wastewater treatment plant be created. Petitioners then questioned Respondent's community outreach activities, which Complainant had referenced in its Response to Comments. The undersigned found that as argued by Complainant in its Response to Petition, EPA lacks the legal authority under section 309(g) of the CWA to establish advisory committees or environmental monitoring programs or compel Respondent to engage in outreach activities. The undersigned concluded that given the absence of any material and relevant issue not considered by Complainant with respect to the course of action requested by Petitioners, their claim in this regard was also denied.

Finally, Petitioners referred in their Comments and Petition to Respondent having a history of violations. While a violator's history of prior violations is a statutory penalty factor to be considered under section 309(g)(3) of the CWA, the undersigned found that Petitioners had presented no specific claims of violations that were related to those set forth in the proposed CAFO, and presented no argument supporting the notion that any prior, unspecified infraction, had it been considered, should have led to a penalty different than that agreed upon by the parties. The undersigned also noted that Complainant had addressed claims concerning Respondent's history of violations in its Response to Comments, which suggested that to the extent any prior violations would be relevant to the proposed CAFO, Complainant had adequately considered them. Accordingly, any claim in this regard was denied.

Having found that Petitioners failed to present any relevant and material evidence that had not been adequately considered and responded to by Complainant in agreeing to the proposed CAFO, the undersigned then addressed Petitioners' requests for a public hearing in their Comments and Petition. Noting that Petitioners appeared to seek a public forum, at least in part, for the parties to explain the meaning of the proposed CAFO to the public, the undersigned observed that section 309(g) of the CWA and the Rules of Practice provide, not for a meeting of that nature, but rather a hearing at which evidence is presented for the purpose of determining whether Complainant met its burden of proving that Respondent committed the violations as alleged and that the proposed penalty is appropriate based on applicable law and policy. The undersigned noted that Petitioners did not specifically identify any testimonial or documentary evidence that they would present at any such hearing. The undersigned further noted that Petitioners did not offer in either their Comments or the Petition any relevant and material evidence or arguments that had not already been adequately addressed by Complainant. For these reasons, the undersigned found that resolution of the proceeding by the parties would be appropriate without a hearing.

The undersigned thus issued the Order Denying Petition to Set Aside Consent Agreement and Proposed Final Order.

Dated: May 8, 2018.

Susan L. Biro,

Chief Administrative Law Judge.

[FR Doc. 2018–10460 Filed 5–15–18; 8:45 am]

BILLING CODE 6560–50–P

[2] Petitioners described the arguments set forth in the Petition as additions to the Comments they had previously submitted to EPA in response to the public notice of EPA's intent to file the proposed CAFO. Accordingly, the undersigned considered the arguments raised by Petitioners in both the Petition and the Comments.

FEDERAL ELECTION COMMISSION

[Notice 2018–09]

Filing Dates for the Texas Special Election in the 27th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Texas has scheduled a special general election on June 30, 2018, to fill the U.S. House of Representatives seat in the 27th Congressional District vacated by Representative Blake Farenthold. There are two possible

elections, but only one may be necessary. Under Texas law, all qualified candidates, regardless of party affiliation, will appear on the ballot. The majority winner of the special election is declared elected. Should no candidate achieve a majority vote, the Governor will then set the date for a Special Runoff Election that will include only the top two vote-getters.

Committees participating in the Texas special election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 1050 First Street NE, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Texas Special General Election shall file a 12-day Pre-General Report on June 18, 2018. If there is a majority winner, committees must also file a Post-General Report on July 30, 2018. (See chart below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2018 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Texas Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Texas Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Texas Special General Election may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Possible Special Runoff Election

In the event that no candidate receives a majority of the votes in the Special General Election, a Special Runoff Election will be held. The Commission will publish a future notice giving the filing dates for that election if it becomes necessary.

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $18,200 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL GENERAL ELECTION

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
If Only the Special General is Held (06/30/18), Political Committees Involved Must File			
Pre-General	06/10/18	06/15/18	06/18/18
July Quarterly	06/30/18	07/15/18	[2] 07/15/18
Post-General	07/20/18	07/30/18	07/30/18
October Quarterly	09/30/18	10/15/18	[2] 10/15/18
If Two Elections Are Held, Political Committees Involved Only in the Special General (06/30/18) Must File			
Pre-General	06/10/18	06/15/18	06/18/18
July Quarterly	06/30/18	07/15/18	[2] 07/15/18

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: May 1, 2018.

On behalf of the Commission.

Caroline C. Hunter,

Chair, Federal Election Commission.

[FR Doc. 2018–10386 Filed 5–15–18; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2018–N–05]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 60-Day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Minimum Requirements for Appraisal Management Companies,'' which has been assigned control number 2590–0013 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on July 31, 2018.

DATES: Interested persons may submit comments on or before July 16, 2018.

ADDRESSES: Submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Minimum Requirements for Appraisal Management Companies, (No. 2018–N–05)' '' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Minimum Requirements for Appraisal Management Companies, (No. 2018–N–05)''.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

FOR FURTHER INFORMATION CONTACT: Robert Witt, Senior Policy Analyst, Office of Housing and Regulatory Policy, by email at *Robert.Witt@fhfa.gov* or by telephone at (202) 649–3128; or Eric Raudenbush, Associate General Counsel, *Eric.Raudenbush@fhfa.gov,* (202) 649–3084 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION: FHFA is seeking comments on its upcoming request to OMB to renew the PRA clearance for the following collection of information:

Title: Minimum requirements for appraisal management companies.

OMB Number: 2590–0013.

Affected Public: Participating States and State-registered Appraisal Management Companies.

A. Need for and Use of the Information Collection

In 2015, FHFA, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (Board) (collectively, the Agencies) jointly issued regulations [1] to implement minimum statutory requirements to be applied by States in the registration and supervision of appraisal management companies (AMCs).[2] These minimum requirements apply to States that have elected to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating States).[3]

The regulations also implement the statutory requirement that States report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) the information required by the ASC to administer the national registry of AMCs (AMC National Registry or Registry).[4] When fully established, the AMC National Registry will include AMCs that are either: (1) Subsidiaries owned and controlled by an insured depository institution (as defined in 12 U.S.C. 1813) and regulated by either the FDIC, OCC, or Board (federally regulated AMCs); [5] or (2) registered with, and subject to supervision of, a State appraiser certifying and licensing agency.

FHFA's AMC regulation, located at Subpart B of 12 CFR part 1222, is substantively identical to the AMC regulations of the FDIC, OCC, and Board and contains the recordkeeping and reporting requirements described below.

1. State Reporting Requirements (IC #1)

The regulation requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State submit to the ASC the information regarding such AMCs required to be submitted by ASC regulations or guidance concerning AMCs that operate in the State.[6]

2. State Recordkeeping Requirements (IC #2)

States seeking to register AMCs must have an AMC registration and supervision program. The regulation requires each participating State to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) Review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential violations of laws, regulations, or orders; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.[7]

The regulation requires each participating state to impose requirements on AMCs that are not federally regulated (non-federally regulated AMCs) to: (i) Register with and be subject to supervision by a state appraiser certifying and licensing agency in each state in which the AMC operates; (ii) use only state-certified or state-licensed appraisers for federally regulated transactions in conformity with any federally regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with sections 129E(a) through (i) of the Truth-in-Lending Act.[8]

3. AMC Reporting Requirements (IC #3)

The regulation provides that an AMC may not be registered by a state or included on the AMC National Registry

[1] The National Credit Union Administration and the Bureau of Consumer Financial Protection also participated in the joint rulemaking but, by agreement, the responsibility for clearance under the PRA of information collections contained in the joint regulations is shared only by the FDIC, OCC, Board, and FHFA.

[2] *See* 12 U.S.C. 3353(a). An AMC is an entity that serves as an intermediary for, and provides certain services to, appraisers and lenders.

[3] 12 U.S.C. 3346.

[4] *See* 12 U.S.C. 3353(e).

[5] *See* 12 CFR 1222.21(k) (defining ''Federally regulated AMC'').

[6] *See* 12 CFR 1222.26.

[7] *See* 12 CFR 1222.23(a).

[8] *See* 12 CFR 1222.23(b). Sections 129E(a) through (i) of the Truth-in-Lending Act are located at 15 U.S.C. 1639e(a)–(i).

if the company is owned, directly or indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any state for a substantive cause.[9] The regulation also provides that an AMC may not be registered by a state if any person that owns 10 percent or more of the AMC fails to submit to a background investigation carried out by the state appraiser certifying and licensing agency.[10] Thus, each AMC registering with a state must provide information to the state on compliance with those ownership restrictions. Further, the regulation requires that a federally regulated AMC report to the state or states in which it operates the information required to be submitted by the state pursuant to the ASC's policies, including policies regarding the determination of the AMC National Registry fee, and information regarding compliance with the ownership restrictions described above.[11]

4. AMC Recordkeeping Requirements (IC #4)

An entity meets the definition of an AMC that is subject to the requirements of the AMC regulation if, among other things, it oversees an appraiser panel of more than 15 state-certified or state-licensed appraisers in a state, or 25 or more state-certified or state-licensed appraisers in two or more states, within a given 12-month period.[12] For purposes of determining whether a company qualifies as an AMC under that definition, the regulation provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) The AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.[13] The AMC would retain these notices in its files.

B. Burden Estimate

There is no change in the methodology or substance of this information collection. For the information collections described above, the general methodology is to compute the industry wide burden hours for participating states and AMCs and then assign a share of the burden hours to each of the Agencies for each information collection.

As noted above, each of the Agencies' AMC regulations contains reporting and recordkeeping requirements applying to participating states and to both federally regulated and non-federally regulated AMCs. The Agencies have estimated that approximately 200 entities meet the regulatory definition of an ''appraisal management company'' [14] and that, of those 200 AMCs, approximately 120 are federally regulated and approximately 80 non-federally regulated.[15] Unlike the insured depository institutions regulated by the OCC, FDIC, and Board, none of FHFA's regulated entities owns or controls an AMC or, by law, could ever own or control an AMC. Accordingly, the Agencies have agreed that responsibility for the burdens arising from reporting and recordkeeping requirements imposed upon federally regulated AMCs are to be split evenly among the OCC, FDIC, and Board (*i.e.,* the equivalent of 40 federally regulated AMCs for each agency) and that FHFA will not include those burdens in its totals. The four Agencies have agreed to split the total burdens imposed upon participating states and upon non-federally regulated AMCs evenly between them (*i.e.,* by taking responsibility for 25 percent of the burden per agency or, in the case of non-federally regulated AMCs, the equivalent of 20 such AMCs for each agency).

Thus, for ICs #1 and #2, which relate to reporting and recordkeeping requirements imposed upon participating states, each agency is responsible for 25 percent of the total estimated burden. For ICs #3 and #4, which relate to reporting and recordkeeping requirements imposed upon both federally regulated AMCs and non-federally regulated AMCs, the OCC, FDIC, and Board are each responsible for the burden imposed upon a total of 60 AMCs (40 federally regulated plus 20 non-federally regulated), or 30 percent of the total burden, while FHFA is responsible only for the burden imposed upon 20 non-federally regulated AMCs, or 10 percent of the total burden.

The Agencies estimate the total annualized hour burden placed on respondents by the information collection in the joint AMC regulations to be 1,445 hours. FHFA estimates its share of the hour burden to be 183 hours. The calculations on which those estimated are based are described below.

1. State Reporting Requirements (IC #1)

The total estimated burden hours for state reporting to the ASC are calculated by multiplying the number of states by the hour burden per state. The burden hours are then divided equally among the FDIC, OCC, Board, and FHFA, with each agency responsible for 25 percent of the total. For purposes of this calculation, the number of states is set at 55 which, in conformity with the regulatory definition of ''state,'' includes all 50 U.S. states as well as the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.[16] The burden estimate of 1 hour per report is unchanged from the estimate provided for the currently-approved ICR. Therefore, the estimated total state reporting burden attributable to all of the Agencies is: 55 states × 1 hour/state = 55 hours. The estimated burden hours attributable to FHFA are 55 hours × 25 percent = 14 hours (rounded to the nearest whole number).

2. State Recordkeeping Requirements (IC #2)

The estimated burden hours on participating states for developing and maintaining an AMC licensing program is calculated by multiplying the number of states without a registration and licensing program by the hour burden to develop the system. The total burden hours are then equally divided among the FDIC, OCC, Board, and FHFA. According to the Appraisal Institute, as of July 26, 2017, there were 5 states that had not developed a system to register and oversee AMCs.[17] The burden estimate of 40 hours per state without a registration system is unchanged from the estimate provided for the currently-approved ICR. Therefore, the total estimated burden attributable to all of the Agencies is: 5 States × 40 hours/state = 200 hours. The estimated burden hours attributable to FHFA are 200 hours × 25 percent = 50 hours.

3. AMC Reporting Requirements (IC #3)

The burden for AMC reporting requirements for information needed to determine the AMC National Registry fee and information regarding compliance with the AMC ownership restrictions is calculated by multiplying the number of AMCs by the frequency of response and then by the burden per

[9] *See* 12 CFR 1222.24(a), .25(b).

[10] *See* 12 CFR 1222.24(b).

[11] *See* 12 CFR 1222.25(c).

[12] *See* 12 CFR 1222.21(c)(iii).

[13] *See* 12 CFR 1222.22(b).

[14] In FHFA's regulations, this definition is set forth at 12 CFR 1222.21(c).

[15] FHFA anticipates that more definitive information on the total number of AMCs and on the relative number of federally regulated and non-federally regulated AMCs will become available after the joint regulations' AMC registration requirements become effective on August 10, 2018.

[16] *See* 12 CFR 1222.21(o).

[17] Appraisal Institute ''Enacted State AMC Laws''. *https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/.*

response. As described above, 30 percent of the burden hours are then assigned to each of the FDIC, OCC, and Board, while 10 percent are assigned to FHFA.

The frequency of response is estimated as the number of states that do not have an AMC registration program in which the average AMC operates.[18] As discussed above, 5 states do not have AMC registration or oversight programs. According to the Consumer Financial Protection Bureau (CFPB), the average AMC operates in 19.56 states.[19] Therefore, the average AMC operates in approximately 2 states that do not have AMC registration systems: (5 States/55 states) × 19.56 states = 1.778 states, rounded to 2 states. The burden estimate of one hour per response is unchanged from the estimate provided for the currently-approved ICR. Therefore, the total estimated hour burden is: 200 AMCs × 2 states × 1 hour = 400 hours. The estimated burden hours attributable to FHFA are 400 hours × 10 percent = 40 hours.

4. AMC Recordkeeping Requirements (IC #4)

The burden for recordkeeping by AMCs of written notices of appraiser removal from a network or panel is estimated to be equal to the number of appraisers who leave the profession per year multiplied by the estimated percentage of appraisers who work for AMCs, then multiplied by burden hours per notice. As described above, 30 percent of the burden hours are then assigned to each of the FDIC, OCC, and Board, while 10 percent are assigned to FHFA.

The number of appraisers who leave an AMC annually, either by resigning, being laid off, or having their licenses revoked or surrendered, is estimated to be 9,881. The burden estimate of 0.08 hours per notice is unchanged from the estimate provided for the currently-approved ICR. Therefore, the estimated total hour burden is: 9,881 notices × 0.08 hours = 790 hours (rounded to the nearest whole number). The estimated burden hours attributable to FHFA are 790 hours × 10 percent = 79 hours.

C. Comments Request

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: May 10, 2018.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2018–10430 Filed 5–15–18; 8:45 am]

BILLING CODE 8070–01–P

[18] The number of states includes all U.S. states, territories, and districts to include: The Commonwealth of the Northern Mariana Islands; the District of Columbia; Guam; Puerto Rico; and the U.S. Virgin Islands.

[19] The CFPB conducted a survey of 9 AMCs in 2013 regarding the provisions in the regulation and the related PRA burden.

FEDERAL HOUSING FINANCE AGENCY

[No. 2018–N–06]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: 60-day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Minority and Women Inclusion,'' which has been assigned control number 2590–0014 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which is due to expire on July 31, 2018.

DATES: Interested persons may submit comments on or before July 16, 2018.

ADDRESSES: Submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Minority and Women Inclusion, (No. 2018–N–06)' '' by any of the following methods:

- *Agency website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Minority and Women Inclusion, (No. 2018–N–06)''.

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

FOR FURTHER INFORMATION CONTACT: Sylvia Martinez, Principal Policy Analyst, Office of Minority and Women Inclusion, by email at *Sylvia.Martinez@fhfa.gov* or by telephone at (202) 649–3301; or Eric Raudenbush, Associate General Counsel, *Eric.Raudenbush@fhfa.gov*, (202) 649–3084 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Federal Housing Finance Agency (FHFA) is seeking comments on its collection of information regarding the minority and gender classification of individuals serving on the boards of directors of the Federal Home Loan Bank (Banks) and of the Office of Finance under FHFA's regulations on Minority and Women Inclusion (MWI), codified at 12 CFR part 1223, which it will soon be submitting for renewal of the OMB control number under the PRA.

A. Need for and Use of the Information Collection

The Federal Home Loan Bank System consists of eleven regional Banks and the Office of Finance, which issues and services the Banks' debt securities. The Banks are wholesale financial institutions, organized under authority of the Federal Home Loan Bank Act (Bank Act) to serve the public interest by enhancing the availability of residential housing finance and community lending credit through their member institutions and, to a limited extent, through certain eligible non-member entities. Each Bank is structured as a regional cooperative that is owned and controlled by member financial institutions located within its

district, which are also its primary customers. The Bank Act vests the management of each Bank in a board of directors that consists of two types of directors: (1) Member directors, who are drawn from the officers and directors of member institutions located in the Bank's district and who are elected to represent members in a particular state in that district; and (2) independent directors, who are unaffiliated with any of the Bank's member institutions, but who reside in the Bank's district and are elected on an at-large basis.[1] The Office of Finance is also governed by a board of directors, which consists of the presidents of the eleven Banks and five independent directors.[2]

Section 1319A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) requires that each of the Banks establish an Office of Minority and Women Inclusion (OMWI) to be responsible for all matters relating to diversity in its management, employment, and business activities, in accordance with requirements established by FHFA.[3] Section 1319A also requires that each Bank implement standards and procedures to ensure, to the maximum extent possible, the inclusion and utilization of women and minorities ''at all levels'' of its business and activities, and submit an annual report to FHFA detailing actions taken to achieve those goals.[4]

FHFA's MWI regulations implement those statutory requirements and also extend the requirements to the Office of Finance. The regulations require generally that each Bank and the Office of Finance ''develop, implement, and maintain policies and procedures to ensure, to the maximum extent possible in balance with financially safe and sound business practices, the inclusion and utilization of minorities, women, individuals with disabilities, and minority-, women-, and disabled-owned businesses in all business and activities and at all levels of the regulated entity, including in management, employment, procurement, insurance, and all types of contracts.'' [5] In recognition of the fact that each Bank is required by statute to promote diversity and inclusion ''at all levels'' of its business and activities, the MWI regulations further require that the Banks' policies and procedures (as well as those of the Office of Finance) ''[e]ncourage the consideration of diversity in nominating or soliciting nominees for positions on boards of directors and engage in recruiting and outreach directed at encouraging individuals who are minorities, women and individuals with disabilities to seek or apply for employment with the regulated entity.'' [6]

In conformity with the statutory requirements, FHFA's MWI regulations require that each Bank and the Office of Finance submit to FHFA an annual report describing, among other things, its efforts to promote diversity at all levels of management and employment, and the results of those efforts.[7] In order to provide a quantitative basis upon which to assess the results of those efforts, FHFA's regulations require that each Bank and the Office of Finance set forth in in their respective annual reports the demographic data reported on the EEO–1 form, which they are required to file annually with the Equal Employment Opportunity Commission (EEOC).[8] The EEO–1 form requires that each respondent provide race, ethnicity and gender information for its employees, broken down into various job categories. Because the EEO–1 form does not require that a respondent provide information on board directors, FHFA cannot use the EEO–1 data to assess the effectiveness of the Bank System's efforts to ''encourage the consideration of diversity in nominating or soliciting nominees for positions on boards of directors.''

Therefore, in order to enable FHFA to assess those efforts, the MWI regulations separately require that the annual reports set forth ''[d]ata showing for the reporting year by minority and gender classification, the number of individuals on the board of directors of each Bank and the Office of Finance,'' using the same racial and ethnic classifications that are used on the EEO–1 form (which comply with OMB's ''Statistical Policy Directive No. 15, Race and Ethnic Standards for Federal Statistics and Administrative Reporting'').[9] The regulation requires that each Bank and the Office of Finance collect that data ''through an information collection requesting each director's voluntary self-identification of his or her minority and gender classification without personally identifiable information.''

FHFA uses the information collected under this control number to assess the effectiveness of the policies and procedures that each Bank and the Office of Finance is required to implement to promote diversity in all of its business and activities ''at all levels'' and, specifically, to encourage diversity in the nomination and solicitation of nominees for members of its boards of directors. FHFA also uses the information to establish a baseline to analyze future trends related to the diversity of the boards of directors of the Banks and the Office of Finance and to assess the effectiveness of the strategies developed by the Banks and the Office of Finance for promoting, developing, and retaining diverse board talent.

B. Burden Estimate

FHFA estimates the total annual hour burden imposed upon respondents by this information collection to be 20 hours. This is based on estimates that 200 Bank and Office of Finance Directors will respond annually, with each response taking an average of 0.1 hours (6 minutes) (200 respondents × 0.1 hours = 20 hours).

C. Comments Request

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Dated: May 10, 2018.

Kevin Winkler,

Chief Information Officer, Federal Housing Finance Agency.

[FR Doc. 2018–10431 Filed 5–15–18; 8:45 am]

BILLING CODE 8070–01–P

[1] *See* 12 U.S.C. 1427(a)(1), (b), (d).

[2] *See* 12 CFR 1273.7(a).

[3] *See* 12 U.S.C. 4520(a).

[4] *See* 12 U.S.C. 4520(b), (d).

[5] *See* 12 CFR 1223.21(b).

[6] *See* 12 CFR 1223.21(b)(7).

[7] *See* 12 CFR 1223.22(a).

[8] *See* 12 CFR 1223.23(b)(1). As required by 29 CFR 1602.7, each Bank and the Office of Finance annually files an EEO–1 form with the EEOC.

[9] *See* 12 CFR 1223.23(b)(10)(i).

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 Registration Statement for Persons Who Extend Credit Secured by Margin Stock (Other Than Banks, Brokers, or Dealers) (FR G–1), the Deregistration Statement for Persons Registered Pursuant to

Regulation U (FR G–2), and the Annual Report (FR G–4), and to extend for three years, without revision, the Statement of Purpose for an Extension of Credit Secured by Margin Stock by a Person Subject to Registration Under Regulation U (FR G–3), the Statement of Purpose for an Extension of Credit by a Creditor (FR T–4), and the Statement of Purpose for an Extension of Credit Secured by Margin Stock (FR U–1). These six data collections are collectively known as the Margin Credit Reports. The revisions will be applicable as of July 1, 2018, instead of April 1, 2018, as proposed.

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 FR G–1, FR G–2, and FR G–4 reports, as well as extension for three years, without revision, of the FR G–3, FR T–4, and FR U–1:

1. Report title: Registration Statement for Persons Who Extend Credit Secured by Margin Stock (Other Than Banks, Brokers, or Dealers); Deregistration Statement for Persons Registered Pursuant to Regulation U; Annual Report.

Agency form number: FR G–1; FR G–2; FR G–4.

OMB control number: 7100–0011.

Effective date: July 1, 2018.

Frequency: FR G–1 and FR G–2, On occasion; FR G–4, annually.

Estimated number of respondents: 89.

Estimated average hours per response: FR G–1, 2.5; FR G–2, 0.25; FR G–4, 2.

Estimated annual burden hours: 160.

General description of report: The registration statement (FR G–1) is required to enable the Federal Reserve to identify nonbank lenders subject to the Board's Regulation U, to verify compliance with the regulation, and to monitor margin credit. In addition, registered nonbank lenders can be subject to periodic review by the Board, the National Credit Union Administration, and the Farm Credit Administration.

The deregistration statement (FR G–2) is used by nonbank lenders to terminate its registration if their margin credit activities no longer exceed the regulatory threshold found in Regulation U. Under section 221.3(b)(2) of Regulation U, a registered nonbank lender may apply to terminate its registration if the lender has not, during the preceding six calendar months, had more than $200,000 of such credit outstanding.

The information submitted on the annual report (FR G–4) is required pursuant to Regulation U to enable the Federal Reserve to monitor the amount of credit extended by nonbank lenders that is secured by margin stock.

2. Report title: Statement of Purpose for an Extension of Credit Secured by Margin Stock by a Person Subject to Registration Under Regulation U; Statement of Purpose for an Extension of Credit by a Creditor; Statement of Purpose for an Extension of Credit Secured by Margin Stock.

Agency form number: FR G–3; FR T–4; FR U–1.

OMB control number: 7100–0018; 7100–0019; 7100–0115.

Effective date: July 1, 2018.

Frequency: On occasion.

Estimated number of respondents: FR G–3, 6; FR T–4, 4; FR U–1, 4.

Estimated average hours per response: FR G–3, 0.17; FR T–4, 0.17; FR U–1, 0.17.

Estimated annual burden hours: FR G–3, 20; FR T–4, 14; FR U–1, 51.

General description of reports: The FR G–3, FR T–4, and FR U–1 purpose statements, which are completed by the borrower and the lender (brokers and dealers, in the case of the FR T–4), consist of three parts. The borrower completes Part I of the reporting form and is required to do the following: State the amount of the loan and whether the purpose of the loan is to purchase, carry, or trade in securities (pursuant to the Board's Regulation T) or purchase or carry margin stock (pursuant to Regulation U) and, if not, describe the specific purpose of the loan. FR T–4 respondents must also answer a question as to whether the securities serving as collateral will be delivered against payment. The borrower must sign and date the reporting form. The lender completes Part II, which may entail listing and valuing any collateral. The lender then signs and dates Part III of the reporting form, acknowledging that the customer's statement is accepted in good faith. The lender is required to hold the reporting forms for at least three years after the credit is extinguished. The Federal Reserve System does not collect or process this information, but the information required on the form may be reviewed by Federal Reserve examiners to assess compliance with the Securities Exchange Act of 1934 (the Act) and Regulation T.

Legal authorization and confidentiality: These reports are authorized by section 7 of the Act (15 U.S.C. 78g). In addition, the FR T–4 is required by section 220.6 of Regulation T (12 CFR 220.6), the FR U–1 is required by sections 221.3(c)(1)(i) and (2)(i) of Regulation U (12 CFR 221.3(c)(1)(i) and (2)(i)), and the FR G–1, FR G–2, FR G–3, and FR G–4 are required by sections 221.3(b)(1), (2), and (3), and (c)(1)(ii) and (2)(ii) of Regulation U (12 CFR 221.3(b)(1), (2), and (3), and (c)(1)(ii) and (2)(ii)).

The FR G–1 and FR G–4 collect financial information, including a balance sheet, from nonbank lenders subject to Regulation U. Some of these lenders may be individuals or nonbank entities that do not make this information publicly available; release could therefore cause substantial harm to the competitive position of the respondent or result in an unwarranted invasion of personal privacy. In those cases, the information could be withheld under exemption 4 or exemption 6 of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (6)), respectively. Confidentiality determinations will be made on a case-by-case basis. Because the FR G–3, FR T–4, and FR U–1 are not submitted to the Federal Reserve System and FR G–2 does not contain any information considered to be confidential, no confidentiality determination is necessary for these reports.

Current actions: On January 23, 2018, the Board published a notice in the **Federal Register** (83 FR 3146) requesting public comment for 60 days on the extension, with revision, of the FR G–1, FR G–2, and FR G–4, as well as the extension, without revision, of the FR G–3, FR T–4, and FR U–1. The Board proposed to revise the instructions for the FR G–1, FR G–2, and FR G–4 to require respondents to submit Portable Document Format (PDF) versions of the reporting forms and attachments to a designated Federal Reserve Board email address. The Board also proposed to consolidate all six Margin Credit Reports under one OMB control number, 7100–0011, which currently only includes the FR G–1, FR G–2, and FR G–4. The comment period expired on March 26, 2018. The Board did not receive any comments. Accordingly, the revisions will be implemented as proposed; provided that, the effective date of the revisions will be July 1, 2018, rather than April 1, 2018, as proposed.

Board of Governors of the Federal Reserve System, May 11, 2018.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2018–10410 Filed 5–15–18; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 31, 2018.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *The William C. Martin 2018 Grantor Retained Annuity Trust #1, with William C. Martin as trustee, and the William C. Martin 2018 Grantor Retained Annuity Trust #2, with William C. Martin as trustee, all of Ann Arbor, Michigan;* to join the Martin Family Control Group approved on December 15, 2017, and acquire voting shares of Arbor Bancorp, Inc., and thereby indirectly acquire voting shares of Bank of Ann Arbor, both of Ann Arbor, Michigan.

Board of Governors of the Federal Reserve System, May 11, 2018.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2018–10438 Filed 5–15–18; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0035; Docket No. 2018–0003; Sequence No. 7]

Information Collection; Claims and Appeals

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning claims and appeals.

DATES: Submit comments on or before July 16, 2018.

ADDRESSES: Submit comments identified by Information Collection 9000–0035, Claims and Appeals, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0035, Claims and Appeals''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0035, Claims and Appeals'' on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0035, Claims and Appeals.

Instructions: Please submit comments only and cite Information Collection 9000–0035, Claims and Appeals, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Charles Gray, Procurement Analyst, Federal Acquisition Policy Division, GSA, 703–795–6328 or via email at *charles.gray@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

It is the Government's policy to try to resolve all contractual issues by mutual agreement at the contracting officer's level without litigation. Reasonable efforts should be made to resolve controversies prior to submission of a contractor's claim. The Contract Disputes Act of 1978 (41 U.S.C. 7103) requires that claims exceeding $100,000 must be accompanied by a certification that (1) the claim is made in good faith; (2) supporting data are accurate and complete; and (3) the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. The information, as required by FAR clause 52.233–1, Disputes, is used by a contracting officer to decide or resolve the claim. Contractors may appeal the contracting officer's decision by submitting written appeals to the appropriate officials.

B. Annual Reporting Burden

Respondents: 4,500.
Responses per Respondent: 3.
Annual Responses: 13,500.
Hours Per Response: 1.
Total Burden Hours: 13,500.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on

valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0035, Claims and Appeals, in all correspondence.

Dated: May 10, 2018.

Lorin Curit,

Director, Federal Acquisition Policy Division, Office of Governmentwide Acquisition Policy, Office of Acquisition Policy, Office of Governmentwide Policy.

[FR Doc. 2018–10408 Filed 5–15–18; 8:45 am]

BILLING CODE 6820–EP–P

GENERAL SERVICES ADMINISTRATION

[Notice–MA–2018–03; Docket No. 2018–0002, Sequence No. 7]

Rescission of FTR Bulletins

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Notice of Federal Travel Regulation (FTR) Bulletin 18–04, rescission of FTR Bulletins.

SUMMARY: GSA is officially rescinding various FTR bulletins to ensure the Travel/Per Diem Bulletin section on the agency's FTR website displays only current information. Agencies' policies should be updated as warranted.

DATES: The rescission is as of May 16, 2018.

FOR FURTHER INFORMATION CONTACT: For clarification of content, please contact Mr. Cy Greenidge, Office of Government-wide Policy, Office of Asset and Transportation Management, at 202–219–2349, or by email at *travelpolicy@gsa.gov.* Please cite Notice of FTR Bulletin 18–04.

SUPPLEMENTARY INFORMATION: Executive Order 13777, Enforcing the Regulatory Reform Agenda, Section 3, paragraph (d)(ii), states in part, the Regulatory Reform Task Force shall attempt to identify regulations that are outdated, unnecessary, or ineffective. GSA has conducted a thorough review of all FTR bulletins on the FTR Travel/Per Diem Bulletins website (*https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation/federal-travel-regulation-and-related-files#TravelPerDiemBulletins*) and determined that some of the Bulletins contain outdated, duplicative, expired, or inapplicable content. FTR Bulletin 18–04 lists all rescinded bulletins meeting one of the aforementioned criterion.

Dated: May 11, 2018.

Alexander Kurien,

Deputy Associate Administrator, Office of Asset and Transportation Management, Office of Government-wide Policy.

[FR Doc. 2018–10436 Filed 5–15–18; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Evaluation of the Transitional Living Program (TLP).

OMB No.: 0970–0383.

Description: The Family and Youth Services Bureau (FYSB) and the Office of Planning, Research, Evaluation (OPRE) in the Administration for Children and Families (ACF) are requesting to continue collecting data as part of a currently approved information collection (OMB No. 0970–0383). The purpose is to continue baseline data collection at study enrollment and follow-up data collection for the Evaluation of the Transitional Living Program (TLP). The TLP evaluation was designed to examine the effects of FYSB's Transitional Living Program on runaway and homeless youth, focusing on such outcomes as housing and homelessness, education or training, employment, social connections, socio-emotional well-being, and risk behaviors.

Data collection will include three primary surveys, previously approved by OMB: (1) A survey administered at the time of TLP enrollment (baseline), (2) a survey administered 6 months after enrollment, which will collect information on short-terms outcomes; and (3) a survey administered at 12 months, which will collect information on longer-term outcomes. Participants will be enrolled through the TLP study sites.

Respondents: Runaway and homeless youth ages 16 to 22 who agree to participate in the study upon enrollment into one of the TLP study sites.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Young Adult Baseline Survey	600	200	1	0.62	124
Young Adult 6-Month Follow Up Survey	600	200	1	0.61	122
Young Adult 12-Month Follow Up Survey	600	200	1	0.61	122

Estimated Total Burden Hours: 368.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2018–10461 Filed 5–15–18; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–1773]

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Blood Products Advisory Committee. The general function of the Blood Products Advisory Committee is to provide advice and recommendations to the Agency on regulatory issues related to blood and products derived from blood. On the first day of the meeting, the Committee will provide advice regarding bacterial risk control strategies to enhance the safety and availability of platelets for transfusion. On the second day of the meeting, the Committee, supplemented with members from the Microbiology Devices Panel of the Medical Devices Advisory Committee, will function as a medical device panel to provide advice and recommendations to the Agency on classification of devices. The meeting will be open to the public.

DATES: The meeting will be held on July 18, 2018, from 8 a.m. to 5 p.m. and July 19, 2018, from 8 a.m. to 3 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503, sections B and C), 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.*

FOR FURTHER INFORMATION CONTACT: Bryan Emery, Division of Scientific Advisors and Consultants, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6268, Silver Spring, MD 20993–0002, 240–402–8054, *bryan.emery@fda.hhs.gov;* or Joanne Lipkind, Division of Scientific Advisors and Consultants, CBER, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6270, Silver Spring, MD 20993–0002, 240–402–8106, *joanne.lipkind@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 Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting. For those unable to attend in person, the meeting will be also be available via webcast. The webcast will be available at the following link on both days: *https://collaboration.fda.gov/bpac0718/.*

SUPPLEMENTARY INFORMATION:

Agenda: On July 18, 2018, the Blood Products Advisory Committee will meet in open session to discuss and provide advice regarding bacterial risk control strategies for blood collection establishments and transfusion services to enhance the safety and availability of platelets for transfusion. The Committee will discuss the available strategies to control the risk of bacterial contamination of platelets with 5-day and 7-day dating, including bacterial testing using culture-based devices and rapid bacterial detection devices and implementation of pathogen reduction technology.

On July 19, 2018, the Committee will function as a medical device panel. The Committee will meet in open session to discuss and provide advice regarding the device reclassification from class III to class II of nucleic acid and serology-based point-of-care and laboratory-based in vitro diagnostic devices indicated for use as aids in the diagnosis of human immunodeficiency virus (HIV) infection. The devices that will be discussed by the Committee during the meeting are post-amendment devices that currently are classified into class III under section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(1)).

FDA intends to make background material available to the public approximately 2 weeks and no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 11, 2018. Oral presentations from the public will be scheduled between approximately 2:15 p.m. and 3:15 p.m. on July 18, 2018, and between 12:30 p.m. and 1:30 p.m. on July 19, 2018. 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 July 5, 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 July 6, 2018.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Bryan Emery

or Joanne Lipkin 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 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10414 Filed 5–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0987]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Generic Clearance for the Collection of Qualitative Data on Tobacco Products and Communications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (PRA).

DATES: Fax written comments on the collection of information by June 15, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0796. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Generic Clearance for the Collection of Qualitative Data on Tobacco Products and Communications

OMB Control Number 0910–0796—Extension

Under section 1003(d)(2)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(d)(2)(D)), FDA is authorized to conduct educational and public information programs.

In conducting studies relating to the regulation and communications related to tobacco products, FDA will need to employ formative qualitative research including focus groups, usability testing, and/or in-depth interviews (IDIs) to assess knowledge and perceptions about tobacco-related topics with specific target audiences. The information collected will serve three major purposes. First, formative research will provide critical knowledge about target audiences. FDA must understand people's knowledge and perceptions about tobacco-related topics before developing survey/research questions as well as stimuli for experimental studies. Second, by collecting communications usability information, FDA will be able to serve and respond to the ever-changing demands of consumers of tobacco products. Additionally, we will be able to determine the best way to present messages. Third, initial testing will allow FDA to assess consumer understanding of survey/research questions and study stimuli. Focus groups and/or IDIs with a sample of the target audience will allow FDA to refine the survey/research questions and study stimuli while they are still in the developmental stage. FDA will collect, analyze, and interpret information gathered through this generic clearance in order to: (1) Better understand characteristics of the target audience—its perceptions, knowledge, attitudes, beliefs, and behaviors—and use these in the development of appropriate survey/research questions, study stimuli, or communications; (2) more efficiently and effectively design survey/research questions and study stimuli; and (3) more efficiently and effectively design experimental studies.

FDA is requesting approval of this new generic clearance for collecting information through the use of qualitative methods (*i.e.,* individual interviews, small group discussions, and focus groups) for studies involving all tobacco products regulated by FDA. This information will be used as a first step to explore concepts of interest and assist in the development of quantitative study proposals, complementing other important research efforts at FDA. This information may also be used to help identify and develop communication messages, which may be used in education campaigns. Focus groups play an important role in gathering information because they allow for an in-depth understanding of individual attitudes, beliefs, motivations, and feelings. Focus group research serves the narrowly defined need for direct and informal public opinion on a specific topic. In the **Federal Register** of November 17, 2017 (82 FR 54351), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one comment by a private citizen that was PRA-related.

(Comment) The commenter stated that FDA should use the data we have collected in the past instead of collecting new information. The comment does not go in detail or provide any alternatives.

(Response) This collection is a valuable tool for conducting research. The studies FDA has conducted through this collection of information have been essential in helping FDA meet its mission as a science-based regulatory agency and implementing the Family Smoking Prevention and Tobacco Control Act (Pub. L. 111–31). Future submissions submitted under this generic clearance will continue to assist FDA in its mission to protect and promote public health.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of interview	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
In-Person Individual IDIs	1,092	1	1,092	1	1,092
IDI Screener	1,800	1	1,800	.083 (5 minutes)	149
Focus Group Interviews	4,701	1	4,701	1.5	7,052
Focus Group Screener	3,996	1	3,996	.25 (15 minutes)	999
Usability Testing	2,322	1	2,322	.5 (30 minutes)	1,161
Usability Testing Screener	2,028	1	2,028	.083 (5 minutes)	168
Total					10,621

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of respondents to be included in each new pretest may vary, depending on the nature of the material or message being tested and the target audience. Table 1 provides examples of the types of studies that may be administered and estimated burden levels during a 3-year period. Time to read, view, or listen to the message being tested is built into the ''Hours per Response'' figures.

FDA has updated the estimated burden that was published in the 60-day notice. The estimated burden for this collection has increased by 4,437 hours from 6,184 to 10,621. FDA attributes this increase to adding usability testing, and increasing the overall number of studies planned the next 3 years.

Dated: May 10, 2018.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2018–10457 Filed 5–15–18; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990—New]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 15, 2018.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0990—New—30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Trafficking Victim Assistance Program Social Network Analysis—Network Survey.

Type of Collection: New.

OMB No. 0990–NEW—Office of the Assistant Secretary for Planning and Evaluation—Administration for Children and Families' Trafficking Victim Assistance Program.

Abstract

The Office of the Assistant Secretary for Planning and Evaluation (ASPE), in partnership with the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is requesting Office of Management and Budget (OMB) approval for a new information collection request titled, ''Trafficking Victim Assistance Program (TVAP) Social Network Analysis—Network Survey.'' Under the guidance of ASPE and ACF, a contractor is carrying out this assessment. The data collected and analyzed under this submission will help HHS better understand the type and extent of the relationship between the TVAP grantees, TVAP subrecipients, and other service providers operating in TVAP subrecipient areas. It will also help illuminate each grantee's and subrecipient's types and number of services provided, estimated costs of services, service coordination between grantees or subrecipients and other services providers, and type and strength of relationships between grantees and subrecipients. This information will enable HHS to understand the structure of the grantee/subrecipient network and inform recommendations for more efficient network management and distribution of support.

TVAP, as authorized by the Trafficking Victims Protection Act of 2000, provides comprehensive case management services to foreign-born victims of human trafficking residing in the United States. Since its inception, TVAP funding and infrastructure have remained relatively unchanged: Services are paid on a per capita basis, and funds are managed through three primary grantees that enter into cooperative agreements with service providers (subrecipients). Given the changing landscape and the greater understanding of the nature and extent of trafficking, HHS is undertaking a program assessment to understand whether any efficiencies can be gained in the program administration and structure. To supplement an earlier fiscal year 2018 assessment to solicit qualitative feedback from a range of program stakeholders, the information collected for this program survey aims to help HHS determine if efficiencies can be gained through improved coordination among TVAP grantees, TVAP subrecipients, and other service providers.

Data will be collected through an electronic survey of fiscal year 2016 TVAP grantees and subrecipients. Key staff at grantee sites and subrecipient organizations will complete a self-administered online survey that will include questions about each respondent's services provided, estimated costs of services, service coordination between grantees or subrecipients, and type and strength of

relationships between grantees and subrecipients. With this data, the contractor, to inform ASPE and ACF, will build a social/organizational network to depict how grantee and subrecipient organizations collaborate with one another through TVAP to better understand the existing network and identify potential opportunities for improving the efficiency of the network. ASPE anticipates completion of all data collection activities by October 2018.

ESTIMATED ANNUALIZED BURDEN TABLE

Type of respondent	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
TVAP grantees	3	1	45/60	2.25
TVAP Subrecipients	253	1	45/60	189.75
Total	256	1	45/60	192

Terry Clark,

Asst. Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2018–10394 Filed 5–15–18; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

RIN 0991–ZA49

HHS Blueprint to Lower Drug Prices and Reduce Out-of-Pocket Costs

AGENCY: Department of Health and Human Services.

ACTION: Policy Statement; Request for information.

SUMMARY: Through this request for information, HHS seeks comment from interested parties to help shape future policy development and agency action.

DATES: Comments must be submitted on or before July 16, 2018.

ADDRESSES: You may submit comments in one of three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Department of Health and Human Services, 200 Independence Ave. SW, Room 600E, Washington, DC 20201.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Department of Health and Human Services, 200 Independence Ave. SW, Room 600E, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: John O'Brien, (202) 690–7886.

SUPPLEMENTARY INFORMATION: The United States is the world's leader in biopharmaceutical innovation. American innovation has improved health and quality of life for billions of people, and was made possible by our intellectual property system, decades of government and privately-funded research, strong capital markets, and the world's largest scientific research base. By rewarding innovation through patent and data protection, American companies hold the intellectual property rights for most new, and potentially life changing, medicines. Our regulatory system is the most rigorous in the world, ensuring the safety and efficacy of drugs for American patients. Medicare, Medicaid, other Federal health programs, and private payers ensure Americans have access to medicines, from innovative new cures, to generic versions of medications that have markedly lowered costs for consumers.

As part of President Trump's bold plan to put American patients first, the Department of Health and Human Services has developed a comprehensive blueprint that addresses many of the challenges and opportunities impacting American patients and consumers. The blueprint covers multiple areas including, but not limited to:

- Improving competition and ending the gaming of the regulatory process,
- supporting better negotiation of drug discounts in government-funded insurance programs,
- creating incentives for pharmaceutical companies to lower list prices, and,
- reducing out-of-pocket spending for patients at the pharmacy and other sites of care.

HHS also recognizes that achieving the goal of putting American patients first will require interagency collaboration on pharmaceutical trade policies that promote innovation, and are transparent, nondiscriminatory, and increase fair market access for American innovators. Furthermore, HHS seeks to identify when developed nations are paying less for drugs than the prices paid by Federal health programs, and correct these inequities through better negotiation.

HHS has already acted to increase the affordability of medicines for millions of our citizens, but is also going much further in response to President Trump's call to action. Through the work of the Food and Drug Administration and the Centers for Medicare & Medicaid Services, HHS has tremendous ability to change how drugs are developed and paid for in the United States.

The status quo is no longer acceptable. Millions of Americans face soaring drug prices and higher out-of-pocket costs, while manufacturers and middlemen such as pharmacy benefit managers (PBMs) and distributors benefit from rising list prices and their resulting higher rebates and administrative fees. An unprecedented re-examination of the whole system and opportunities for reform is long overdue. We believe a national focus on lowering list prices and out-of-pocket costs has the potential to create new and disruptive alternatives to the current system, while maintaining its many virtues. It is time to realign the system in a way that promotes the development of affordable innovations that improve health outcomes and lower both out-of-pocket cost and the total cost of care.

Through this request for information, HHS seeks comment from interested parties to help shape future policy development and agency action.

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I. Previous Actions by the Trump Administration

The President has consistently emphasized the need to reduce the price of prescription drugs. The Trump Administration has already taken a number of significant administrative steps, and proposed in the President's FY2019 Budget, to improve competition and end the gaming of regulatory processes, support better negotiation of drug discounts through government insurance programs, create incentives for pharmaceutical companies to lower list prices, and reduce consumer out-of-pocket spending at the pharmacy and other care settings.

A. Increasing Competition

Since the beginning of the Trump Administration, HHS has taken a number of actions to increase competition and end the gaming of regulatory processes that may keep drug prices artificially inflated or hinder generic, branded, or biosimilar competition. These efforts include:

- Accelerating Food and Drug Administration (FDA) approval of generic drugs. Studies show that greater generic competition is associated with lower prices. FDA is publishing the names of drugs that have no competitors in order to spur new entrants and bring prices down. Over 1,000 generic drugs were approved in 2017, which is the most in FDA's history in a calendar year by over 200 drugs. These generic approvals saved American consumers and taxpayers nearly $9 billion in 2017.
- Drug Competition Action Plan. In 2017, President Trump's FDA established a Drug Competition Action Plan to enable patients to access more affordable medications by focusing the Agency's efforts in three key areas: (1) Improving the efficiency of the generic drug development, review, and approval process; (2) maximizing scientific and regulatory clarity with respect to complex generic drugs; and (3) closing loopholes that allow brand-name drug companies to ''game'' FDA rules in ways that forestall the generic competition Congress intended. The Agency also has taken steps to prioritize its review of generic drug applications; issued guidance to improve efficiencies in the development, review, and approval processes for generic drugs, including complex generic drugs; and issued guidance to further streamline the submission and review process for shared system REMS, and to allow collective submissions to streamline the review of shared Risk Evaluation and Mitigation Strategies (REMS).
- FDA also announced it will facilitate opportunities for enhanced information sharing between manufacturers, doctors, patients and insurers to improve patient access to medical products, including through value-based insurance.
- Speeding Access to More Affordable Generics by Spurring Competition. Today, a generic manufacturer that has been awarded 180-day exclusivity for being the first generic to file can ''park'' their application with FDA, preventing additional generic manufacturers from entering the market. The President's FY2019 Budget proposes to prevent companies from using their 180-day exclusivity to indefinitely delay real competition and savings for consumers by seeking a legislative change to start a company's 180-day exclusivity clock in certain instances when another generic application is ready for approval, but is blocked solely by such a first applicant's 180-day exclusivity.
- Finalizing a policy in which each biosimilar for a given biologic gets its own billing and payment code under Medicare Part B, to incentivize development of additional lower-cost biosimilars. Prior approaches to biosimilar coding and payment would have created a race to the bottom of biosimilar pricing, while leaving the branded product untouched, making it an unviable market that few would want to enter.

B. Better Negotiation

Medicare Part D has been very successful since it launched in 2006. However, prescription drug markets are different than they were 12 years ago, and in some cases Part D plan sponsors may be prohibited from doing what private payers outside the Medicare program do to negotiate effectively and keep costs low. More can also be done across the Medicare program to provide beneficiaries with the lower costs and greater price transparency resulting from better negotiation.

Since the beginning of the Trump Administration, HHS has taken a number of actions to support better negotiation. These efforts include:

- Finalizing changes to the Medicare Prescription Drug Program in the 2019 Part C and Part D regulation allowing for faster mid-year substitution of generic drugs onto formularies.
- Proposing in the President's FY2019 Budget [1] a 5-part plan to modernize the Medicare Part D program, a portion of which includes enhancing Part D plans' negotiating power with manufacturers by changing Part D plan formulary standards to require a minimum of one drug per category or class rather than two. We note that the 5-part plan is intended to be implemented together, as eliminating even one piece of the package significantly changes the proposal's impacts.
- Proposing in the President's FY2019 Budget to address abusive drug pricing by manufacturers by: establishing an inflation limit for reimbursement of Medicare Part B drugs; reducing Wholesale Acquisition Cost (WAC)-Based Payment when Average Sales Price (ASP) isn't available; and improving manufacturers' reporting of Average Sales Prices to set accurate payment rates.
- Increasing the integrity of the Medicaid Drug Rebate Program, so that manufacturers pay their fair share in rebates, by proposing in the President's FY2019 Budget to remove ambiguity regarding how drugs should be reported under the program. HHS is also manually reviewing each new drug that has been reported in the Medicaid rebate system on a quarterly basis to make sure classifications are correct, and the United States took legal action against Mylan for their misclassification of EpiPen, resulting in an agreement for Mylan to pay back $465 million in rebate payments.
- Proposing in the President's FY2019 Budget to further clarify the Medicaid definition of brand drugs, which would address inappropriate interpretations leading some manufacturers to classify certain brand and over-the-counter drugs as generics for Medicaid rebate purposes, reducing the rebates they owe.
- Proposing in the President's FY2019 Budget to call for new Medicaid demonstration authority for up to five states to test drug coverage and financing reforms that build on private sector best practices. Participating states would determine their own drug formularies, coupled with an appeals process to protect beneficiary access to non-covered drugs based on medical need, and negotiate drug prices directly

[1] *https://www.whitehouse.gov/wp-content/uploads/2018/02/budget-fy2019.pdf.*

with manufacturers. HHS and participating states would rigorously evaluate these demonstrations, which would provide states with new tools to control drug costs and tailor drug coverage decisions to state needs.

• Proposing in the President's FY2019 Budget to authorize the HHS Secretary to leverage Medicare Part D plans' negotiating power for certain drugs covered under Part B.

• Addressing price disparities in the international market. The Administration is updating a number of historical studies to analyze drug prices paid in countries that are a part of the Organisation for Economic Co-operation and Development (OECD).

C. Creating Incentives to Lower List Prices

The list price of a drug does not reflect the discounts or price concessions paid to a PBM, insurer, health plan, or government program. Obscuring these discounts can shift costs to consumers in commercial health plans and Medicare beneficiaries. Many incentives in the current system reward higher list prices, and HHS is interested in creating new incentives to reward drug manufacturers that lower list prices or do not increase them.

Since the beginning of the Trump Administration, HHS has taken a number of actions to create incentives to lower list prices. These efforts include:

• Proposing in the President's FY2019 budget a 5-part plan to modernize the Medicare Part D program, a portion of which includes the exclusion of manufacturer discounts from the calculation of beneficiary out-of-pocket costs in the Medicare Part D coverage gap, and the establishment of a beneficiary out-of-pocket maximum in the Medicare Part D catastrophic phase to reduce out-of-pocket spending for beneficiaries who spend the most on drugs. The changes in the catastrophic phase would shift more responsibility onto plans, creating incentives for plans to negotiate with manufacturers to lower prices for high-cost drugs. We note that the 5-part plan is intended to be implemented together, as eliminating even one piece of the package significantly changes the proposal's impacts.

• In addition, the President's FY2019 Budget proposes reforms to improve 340B Program integrity and ensure that the benefits derived from participation in the program are used to benefit patients, especially low-income and uninsured populations.

D. Reducing Patient Out-of-Pocket Spending

American patients have the right to know what their prescription drugs will really cost before they get to the pharmacy or get the drug. Too many people abandon their prescriptions at the pharmacy when they discover the price is too high, and too many patients are never informed of lower cost options.

Since the beginning of the Trump Administration, HHS has taken a number of steps to lower consumer out-of-pocket spending and improve transparency. These efforts include:

• Finalizing Medicare Outpatient Prospective Payment System (OPPS) rules to reduce beneficiary out-of-pocket spending for 340B drugs administered in certain hospitals by an estimated $320 million in 2018, which would equal $3.2 billion when multiplied over ten years.

• Seeking information about changes in the Medicare Prescription Drug Program regulations for contract year 2019 that would increase transparency for people with Medicare prescription drug coverage. The proposed rule included a Request for Information soliciting comment on potential policy approaches for applying some manufacturer rebates and all pharmacy price concessions to the price of a drug at the point of sale.

• Finalizing changes to the Medicare Prescription Drug Program in the 2019 Part C and Part D regulation allowing Medicare beneficiaries receiving low-income subsidies to access biosimilars at a lower cost.

• Proposing in the President's FY2019 Budget a 5-part plan to modernize the Medicare Part D program, a portion of which includes eliminating cost-sharing on generic drugs for low-income beneficiaries and requiring Medicare Part D plans to apply a substantial portion of rebates at the point of sale. We note that the 5-part plan is intended to be implemented together, as eliminating even one piece of the package significantly changes the proposal's impacts. We also note that in the months following this Part D proposed rule and the President's budget proposal that included this policy change explicitly, several major insurers and pharmacy benefit managers announced they would pass along a portion of rebates to individual members in their fully-insured populations or when otherwise requested by employers.

II. Responding to President Trump's Call to Action

President Trump recently reaffirmed his commitment to reducing the price of prescription drugs, and called on the Administration to propose new strategies and take bold actions to improve competition and end the gaming of regulatory processes, support better negotiation of drug discounts through government insurance programs, create incentives for pharmaceutical companies to lower list prices, and reduce consumer out-of-pocket spending at the pharmacy and other care settings. HHS may undertake these and other actions, to the extent permitted by law, in response to President Trump's call to action.

A. Improve Competition

In response to President Trump's call to action, HHS may support improved competition by:

• *Taking steps to prevent gaming of regulatory processes:* FDA will issue guidance to address some of the ways in which manufacturers may seek to use shared system REMS to delay or block competition from generic products entering the market.

• *Promoting innovation and competition for biologics.* FDA will issue new policies to improve the availability, competitiveness, and adoption of biosimilars as affordable alternatives to branded biologics. FDA will also continue to educate clinicians, patients, and payors about biosimilar and interchangeable products as we seek to increase awareness about these important new treatments.

B. Better Negotiation

In response to President Trump's call to action, HHS may support better negotiation by:

• Directing CMS to develop demonstration projects to test innovative ways to encourage value-based care and lower drug prices. These models should hold manufacturers accountable for outcomes, align with CMS's priorities of value over volume and site-neutral payments, and provide Medicare providers, payers, and states with additional tools to manage spending for high-cost therapies.

• Allowing Part D plans to adjust formulary or benefit design during the benefit year if necessary to address a price increase for a sole source generic drug. Presently, Part D plans do not contract with generic drug manufacturers for the purchase of generic drugs, and generally are not permitted to change their formulary or benefit design without CMS approval in

response to a price increase. This change could ensure Part D plans can respond to a price increase by the only manufacturer of a generic drug.

• Providing plans full flexibility to manage high cost drugs that do not provide Part D plans with rebates or negotiated fixed prices, including in the protected classes. Presently, Part D plans are unable to negotiate lower prices for high-cost drugs without competition. This change could allow Part D plans to use the tools available to private payers outside of the Medicare program to better negotiate for these drugs.

• Updating the methodology used to calculate Drug Plan Customer Service star ratings for plans that are appropriately managing utilization of high-cost drugs. Presently, if a Part D plan issues an adverse redetermination decision, the enrollee, the enrollee's representative or the enrollee's prescriber may appeal the decision to the Independent Review Entity (IRE). This process may discourage Part D plan sponsors from appropriately managing utilization of high-cost drugs. This change could provide Part D plan sponsors with the ability to appropriately manage high-cost changes, while holding sponsors accountable primarily using other successful enforcement mechanisms.

• Evaluating options to allow high-cost drugs to be priced or covered differently based on their indication. Presently, Part D plans must cover and pay the same price for a drug regardless of the indication for which it was prescribed. This change could permit Part D plans to choose to cover or pay a different price for a drug, based on the indication.

• Sending the President a report identifying particular drugs or classes of drugs in Part B where there are savings to be gained by moving them to Part D.

• Taking steps to leverage the authority created by the Competitive Acquisition Program (CAP) for Part B Drugs & Biologicals. This program will generally provide physicians a choice between obtaining these drugs from vendors selected through a competitive bidding process or directly purchasing these drugs and being paid under the current average sales price (ASP) methodology. The CAP, or a model building on CAP authority, may provide opportunities for Federal savings to the extent that aggregate bid prices are less than 106 percent of ASP, and provides opportunities for physicians who do not wish to bear the financial burdens and risk associated with being in the business of drug acquisition.

• Working in conjunction with the Department of Commerce the U.S. Trade Representative, and the U.S. Intellectual Property Enforcement Coordinator to develop the knowledge base necessary to address the unfair disparity between the drug prices in America and other developed countries. The Trump Administration is committed to making the appropriate regulatory changes and seeking legislative solutions to put American patients first.

C. Lowering List Prices

In response to President Trump's call to action, HHS may:

• Call on the FDA to evaluate the inclusion of list prices in direct-to-consumer advertising.

• Direct the Centers for Medicare & Medicaid Services to make Medicare and Medicaid prices more transparent, hold drug makers accountable for their price increases, highlight drugs that have not taken price increases, and recognize when competition is working with an updated drug pricing dashboard. This tool will also provide patients, families, and caregivers with additional information to make informed decisions and predict their cost sharing.

• Develop proposals related to the Affordable Care Act's Maximum Rebate Amount provision, which limits manufacturer rebates on brand and generic drugs in the Medicaid program to 100% of the Average Manufacturer Price.

D. Reduce Patient Out-of-Pocket Spending

In response to President Trump's call for action, HHS may:

• Prohibit Part D plan contracts from preventing pharmacists from telling patients when they could pay less out-of-pocket by not using their insurance—also known as pharmacy gag clauses.

• Require Part D Plan sponsors to provide additional information about drug price increases and lower-cost alternatives in the Explanation of Benefits they currently provide their members.

III. Solicitation of Comments

Building on the ideas already proposed, HHS is considering even bolder actions to bring down prices for patients and taxpayers. These include new measures to increase transparency; fix the incentives that may be increasing prices for patients; and reduce the costs of drug development. HHS is interested in public comments about how the Department can take action to improve competition and end the gaming of regulatory processes, support better negotiation of drug discounts through government insurance programs, create incentives for pharmaceutical companies to lower list prices, and reduce consumer out-of-pocket spending at the pharmacy and other care settings. HHS is also interested in public comments about the general structure and function of the pharmaceutical market, to inform these actions. Proposals described in this section are for administrative action, when within agency authority, and legislative proposals as necessary.

In this Request for Information, HHS is soliciting comments on these and other policies under active consideration.

A. Increasing competition

Underpricing or Cost-Shifting. Do HHS programs contain the correct incentives to obtain affordable prices on safe and effective drugs? Does the Best Price reporting requirement of the Medicaid Drug Rebate Program pose a barrier to price negotiation and certain value-based agreements in other markets, or otherwise shift costs to other markets? Are government programs causing underpricing of generic drugs, and thereby reducing long-term generic competition?

Affordable Care Act Taxes and Rebates. The Affordable Care Act imposed tens of billions of dollars in new taxes and costs on drugs sold in government programs through a new excise tax, an increase in the Medicaid drug rebate amounts, and an extension of these higher rebates to commercially-run Medicaid Managed Care Organizations. How have these changes impacted manufacturer list pricing practices? Are government programs being cross-subsidized by higher list prices and excess costs paid by individuals and employers in the commercial market? If cross-subsidization exists, are the taxes and artificially-depressed prices causing higher overall drug costs or other negative effects?

Access to Reference Product Samples

Distribution restrictions. Certain prescription drugs are subject to limitations on distribution. Some of these distribution limitations are imposed by the manufacturer, while others may be imposed in connection with an FDA-mandated Risk Evaluation and Mitigation Strategy (REMS). Some manufacturers may be gaming these distribution limitations to prevent generic developers from accessing their drugs to conduct the tests that are legally required for a generic drug to be brought to market, thereby limiting

opportunities for competition that could place downward pressure on drug prices. In some instances, for products that are subject to REMS that impact distribution, manufacturers continue to restrict access to generic developers even after the FDA issues a letter stating that it has favorably evaluated the developer's proposed safety protections for testing and would not consider the provision of drug samples to this developer for generic development to violate the applicable REMS. Should additional steps be taken to review existing REMS to determine whether distribution restrictions are appropriate? Are there terms that could be included in REMS, or provided in addition to REMS, that could expand access to products necessary for generic development? Are there other steps that could be taken to facilitate access to products that are under distribution limitations imposed by the manufacturer?

Samples for biosimilars and interchangeables. Like some generic drug developers, companies engaged in biosimilar and interchangeable product development may encounter difficulties obtaining sufficient samples of the reference product for testing. What actions should be considered to facilitate access to reference product samples by these companies?

Biosimilar Development, Approval, Education, and Access

Resources and tools from FDA: FDA prioritizes ongoing efforts to improve the efficiency of the biosimilar and interchangeable product development and approval process. For example, FDA is working to identify areas in which additional information resources or development tools may facilitate the development of high quality biosimilar and interchangeable products. What specific types of information resources or development tools would be most effective in reducing the development costs for biosimilar and interchangeable products?

Improving the Purple Book. In the Purple Book, FDA publishes information about biological products licensed under section 351 of the Public Health Service Act, including reference products, biosimilars, and interchangeable products. The Purple Book provides information about these products that is useful to prescribers, pharmacists, patients, and other stakeholders. FDA is committed to the timely publication of certain information about reference product exclusivity in the Purple Book. How could the Purple Book be more useful to health care professionals, patients, manufacturers, and other stakeholders? What additional information could be added to increase the utility of the Purple Book?

Educating providers and patients. Physician and patient confidence in biosimilar and interchangeable products is critical to the increased market acceptance of these products. FDA intends to build on the momentum of past education efforts, such as the launch of its Biosimilars Education and Outreach Campaign in 2017, by developing additional resources for health care professionals and patients. What types of information and educational resources on biosimilar and interchangeable products would be most useful to heath care professionals and patients to promote understanding of these products? What role could state pharmacy practice acts play in advancing the utilization of biosimilar products?

Interchangeability. How could the interchangeability of biosimilars be improved, and what effects would it have on the prescribing, dispensing, and coverage of biosimilar and interchangeable products?

B. Better Negotiation

The American pharmaceutical marketplace is built on innovation and competition. However, regulations governing how Medicare and Medicaid pay for prescription drugs have not kept pace with the availability of new types of drugs, particularly higher-cost curative therapies intended for use by fewer patients. Drug companies, commercial insurers, and states have proposed creative approaches to financing these new treatments, including indication-based pricing, outcomes-based contracts, long-term financing models, and others. Value-based transformation of our entire healthcare system is a top HHS priority. Improving price transparency is an important part of achieving this aim. What steps can be taken to improve price transparency in Medicare, Medicaid, and other forms of health coverage, so that consumers can seek value when choosing and using their benefits?

Value-Based Arrangements and Price Reporting. What benefits would accrue to Medicare and Medicaid beneficiaries by allowing manufacturers to exclude from statutory price reporting programs discounts, rebates, or price guarantees included in value-based arrangements? How would excluding these approaches from Average Manufacturer Price (AMP) and Best Price (BP) calculations impact the Medicaid Drug Rebate program and supplemental rebate revenue? How would these exclusions affect Average Sales Price (ASP) and 340B Ceiling Prices? What benefits would accrue to Medicare and Medicaid beneficiaries by extending the time for manufacturers to report restatements of AMP and/or BP reporting, as outlined in 42 CFR 447.510, to accommodate adjustments because of possible extended VBP evaluation timeframes? Is there a timeframe CMS should consider that will allow manufacturers to restate AMP and BP without negative impact on state rebate revenue? What modifications could be made to the following regulatory definitions in the current Medicaid Drug Rebate Program that could facilitate the development of VBP arrangements: (1) Bundled sale; (2) free good; (3) unit; or (4) best price? Would providing specific AMP/BP exclusions for VBP pricing used for orphan drugs help manufacturers that cannot adopt a bundled sale approach? What regulatory changes would Medicaid Managed Care organizations find helpful in negotiating VBP supplemental rebates with manufacturers? How would these changes affect Medicare or the 340B program? Are there particular sections of the Social Security Act (*e.g.,* the anti-kickback statute), or other statutes and regulations that can be revised to assist with manufacturers' and states' adoption of value-based arrangements? Please provide specific citations and an explanation of how these changes would assist states and manufacturers in participating in VBP arrangements.

Indication-Based Payments. Prescription drugs have varying degrees of effectiveness when used to treat different types of disease. Though drugs may be approved by the FDA to treat specific indications, or used off-label by prescribers to treat others, they are typically subject to the same price. Should Medicare or Medicaid pay the same price for a drug regardless of the diagnosis for which it is being used? How could indication-based pricing support value-based purchasing? What lessons could be learned from private health plans? Are there unintended consequences of current low-cost drugs increasing in price due to their identification as high value? How and by whom should value be determined?? Is there enough granularity in coding and reimbursement systems to support indication-based pricing? Are changes necessary to CMS's price reporting program definitions or how the FDA's National Drug Code numbers are used in CMS price reporting programs? Do physicians, pharmacists, and insurers have access to all the information they

need to support indication-based payments?

Long-term Financing Models. States and other payers typically establish budgets or premium rates for a given benefit year. As such, their budgets may be challenged when a new high-cost drug unexpectedly becomes available in the benefit year. Long-term financing models are being proposed to help states, insurers, and consumers pay for high-cost treatments by spreading payments over multiple years. Should the state, insurer, drug manufacturer, or other entity bear the risk of receiving future payments? How should Medicare or Medicaid account for the cost of disease averted by a curative therapy paid for by another payer? What regulations should CMS consider revising to allow manufacturers and states more flexibility to participate in novel value-based pricing arrangements? What effects would these solutions have on manufacturer development decisions? What current barriers limit the applicability of these arrangements in the private sector? What assurances would parties need to participate in more of these arrangements, particularly with regard to public programs?

Part B Competitive Acquisition Program. HHS has the authority to operate a Competitive Acquisition Program for Part B drugs. What changes would vendors and providers need to see relative to the 2007–2008 implementation of this program in order to successfully participate in the program? Has the marketplace evolved such that there would be more vendors capable of successfully participating in this program? Are there a sufficient number of providers interested in having a vendor selected through a competitive bidding process obtain these drugs on their behalf, and bear the financial risk and carrying costs? How could this program be implemented in a way that ensures a competitive market among multiple vendors? Is it necessary that the vendors also hold title to the drugs and provide a distribution channel or are there other ways they can provide value? What other approaches could lower Part B drug spending for patients of providers choosing not to participate, without restricting their access to care?

Part B to D. The President's Budget requested the authority to move some Medicare Part B drugs to Medicare Part D. Which drugs or classes of drugs would be good candidates for moving from Part B to Part D? How could this proposal be implemented to help reduce out-of-pocket costs for the 27% of beneficiaries who do not have Medicare prescription drug coverage, or those who have Medicare supplemental benefits in Part B? What additional information would inform how this proposal could be implemented and operated?

Part B drugs are reportedly available to OECD nations at lower prices than those paid by Medicare Part B providers. HHS is interested in receiving data describing the differences between the list prices and net prices paid by Medicare Part B providers, and the prices paid for these same drugs by OECD nations. Though these national health systems may be demanding lower prices by restricting access or delaying entry, should Part B drugs sold by manufacturers offering lower prices to OECD nations be subject to negotiation by Part D plans? Would this lead to lower out-of-pocket costs on behalf of people with Medicare? How could this affect access to medicines for people with Medicare?

Fixing Global Freeloading. U.S. consumers and taxpayers generally pay more for brand drugs than do consumers and taxpayers in other OECD countries, which often have reimbursements set by their central government. In effect, other countries are not paying an appropriate share of the necessary research and development to bring innovative drugs to the market and are instead freeriding off U.S. consumers and taxpayers. What can be done to reduce the pricing disparity and spread the burden for incentivizing new drug development more equally between the U.S. and other developed countries? What policies should the U.S. government pursue in order to protect IP rights and address concerns around compulsory licensing in this area.

Site neutrality for physician-administered drugs. Currently under Medicare Part B and often in Medicaid, hospitals and physicians are reimbursed comparable amounts for drugs they administer to patients, but the facility fees when drugs are administered at hospitals and hospital-owned outpatient departments are many times higher than the fees charged by physician offices. What effect would a site neutral payment policy for drug administration procedures have on the location of the practice of medicine? How would this change affect the organization of health care systems? How would this change affect competition for health care services, particularly for cancer care?

Site neutrality between inpatient and outpatient setting. Medicare payment rules pay for prescription drugs differently when provided during inpatient care (Part A) or administered by an outpatient physician (Part B). Beneficiaries also have different cost-sharing requirements in Part A and Part B. Some drugs can be administered in either the inpatient or outpatient setting, while others are currently limited to inpatient use because of safety concerns. Do the differences between Medicare's Part A and Part B drug payment policies create affordability and access challenges for beneficiaries? What policies should CMS consider to ensure inpatient and outpatient providers are neither underpaid nor overpaid for a drug, regardless of where it was administered? Which elements of the inpatient or outpatient setting lead to naturally differential payments, and why? If a drug can be used safely in the outpatient setting, and achieve the same outcomes at a lower cost, how should Medicare encourage the shift to outpatient settings? In what instances would inpatient administration actually be less costly?

Accuracy of national spending data. Are annual reports of health spending obscuring the true cost of prescription drugs? What is the value of better understanding the difference between gross and net drug prices? How could the Medicare Trustees Report, annual National Health Expenditure publications, Uniform Rate Review Template, and other publications more accurately collect and report gross and net drug spending in medical and pharmacy benefits? Should average Part D rebate amounts be reported separately for small molecule drugs, biologics, and high-cost drugs? What innovation is needed to maximize price transparency without disclosing proprietary information or data protected by confidentiality provisions?

C. Create Incentives To Lower List Prices

Government programs, commercial insurers, and individual consumers pay for drugs differently. The price paid at the pharmacy counter or reimbursed to a physician or hospital is the result of many different complex financial transactions between drug makers, distributors, insurers, pharmacy benefits managers, pharmacies and others. Public programs are also subject to state and Federal regulations governing what drugs are covered, who can be paid for them, and how much will be paid. Too often, these negotiations do not result in the lowest out-of-pocket costs for consumers, and may actually be causing higher list prices.

Fiduciary duty for Pharmacy Benefit Managers. Pharmacy Benefit Managers (PBMs) and benefits consultants help buyers (insurers, large employers) seek rebates intended to lower net drug prices, and help sellers (drug

manufacturers) pay rebates to secure placement on health plan formularies. Most current PBM contracts may allow them to retain a percentage of the rebate collected and other administrative or service fees.

Do PBM rebates and fees based on the percentage of the list price create an incentive to favor higher list prices (and the potential for higher rebates) rather than lower prices? Do higher rebates encourage benefits consultants who represent payers to focus on high rebates instead of low net cost? Do payers manage formularies favoring benefit designs that yield higher rebates rather than lower net drug costs? How are beneficiaries negatively impacted by incentives across the benefits landscape (manufacturer, wholesaler, retailer, PBM, consultants and insurers) that favor higher list prices? How can these incentives be reset to prioritize lower out of pocket costs for consumers, better adherence and improved outcomes for patients? What data would support or refute the premise described above?

Should PBMs be obligated to act solely in the interest of the entity for whom they are managing pharmaceutical benefits? Should PBMs be forbidden from receiving any payment or remuneration from manufacturers, and should PBM contracts be forbidden from including rebates or fees calculated as a percentage of list prices? What effect would imposing this fiduciary duty on PBMs on behalf of the ultimate payer (*i.e.,* consumers) have on PBMs' ability to negotiate drug prices? How could this affect manufacturer pricing behavior, insurance, and benefit design? What unintended consequences for beneficiary out-of-pocket spending and Federal health program spending could result from these changes?

Reducing the impact of rebates. Increasingly higher rebates in Federal health care programs may be causing higher list prices in public programs, and increasing the prices paid by consumers, employers, and commercial insurers. What should CMS consider doing to restrict or reduce the use of rebates? Should Medicare Part D prohibit the use of rebates in contracts between Part D plan sponsors and drug manufacturers, and require these contracts to be based only on a fixed price for a drug over the contract term? What incentives or regulatory changes (*e.g.,* removing the discount safe harbor) could restrict the use of rebates and reduce the effect of rebates on list prices? How would this affect the behavior of drug manufacturers, PBMs, and insurers? How could it change formulary design, premium rates, or the overall structure of the Part D benefit?

Incentives to lower or not increase list prices. Should manufacturers of drugs who have increased their prices over a particular lookback period or have not provided a discount be allowed to be included in the protected classes? Should drugs for which a price increase has not been observed over a particular lookback period be treated differently when determining the exceptions criteria for protected class drugs? What should CMS consider doing, under current authorities, to create incentives for Part D drug manufacturers committing to a price over a particular lookback period? How long should the lookback period be?

The Healthcare Common Procedure Coding System (HCPCS) codes for new Part B drugs are not typically assigned until after they are commercially available. Should they be available immediately at launch for new drugs from manufacturers committing to a price over a particular lookback period? What should CMS consider doing, under current authorities, to create incentives for Part B drugs committing to a price over a particular lookback period? How long should the lookback period be?

How could these incentives affect the behavior of manufacturers and purchasers? What are the operational concerns to implementing them? Are there other incentives that could be created to reward manufacturers of drugs that have not taken a price increase during a particular lookback period?

Inflationary rebate limits. The Department is concerned that limiting manufacturer rebates on brand and generic drugs in the Medicaid program to 100% of calculated AMP allows for excessive price increases to be taken without manufacturers facing the full effect of the price inflationary penalty established by Congress. This policy, implemented as part of the ACA, may allow for runaway price increases and cost-shifting. When is this limitation a valid constraint upon the rebates manufacturers should pay? What impacts would removing the cap on the inflationary rebate have on list prices, price increases over time, and public and private payers?

Exclusion of certain payments, rebates, or discounts from the determination of Average Manufacturer Price and Best Price. The Department is concerned that excluding pharmacy benefit manager rebates from the determination of Best Price, implemented as part of the ACA, may allow for runaway price increases and cost-shifting. The Department is also interested in learning more about the effect of excluding payments received from, and rebates or discounts provided to pharmacy benefit managers (PBMs) from the determination of Average Manufacturer Price.

What impacts would these changes have on list prices, price increases over time, and public and private payers? What data would support or refute the premise described above?

Copay discount cards. Does the use of manufacturer copay cards help lower consumer cost or actually drive increases in manufacturer list price? Does the use of copay cards incent manufacturers and PBMs to work together in driving up list prices by limiting the transparency of the true cost of the drug to the beneficiary? What data would support or refute the premise described above?

CMS regulations presently exclude manufacturer sponsored drug discount card programs from the determination of average manufacturer price and the determination of best price. What effect would eliminating this exclusion have on drug prices?

Would there be circumstances under which allowing beneficiaries of Federal health care programs to utilize copay discount cards would advance public health benefits such as medication adherence, and outweigh the effects on list price and concerns about program integrity? What data would support or refute this?

The 340B Drug Discount Program

The 340B Drug Pricing Program was established by Congress in 1992, and requires drug manufacturers participating in the Medicaid Drug Rebate Program to provide covered outpatient drugs to eligible health care providers—also known as covered entities—at reduced prices. Covered entities include certain qualifying hospitals and Federal grantees identified in section 340B of the Public Health Service Act (PHSA). The Health Resources and Services Administration (HRSA) administers and oversees the 340B program, and the discounts provided may affect the prices paid for drugs used by Medicare beneficiaries, people with Medicaid, and those covered by commercial insurance.

Program Growth. The 340B program has grown significantly since 1992—not only in the number of covered entities and contract pharmacies, but also in the amount of money saved by covered entities. HRSA estimates that covered entities saved approximately $6 billion on approximately $12 billion in discounted purchases in Calendar Year

(CY) 2015 by participating in the 340B program.[2] It is estimated that discounted drug purchases made by covered entities under the 340B program totaled more than $16 billion in 2016—a more than 30 percent increase in 340B program purchases in just one year.[3] How has the growth of the 340B drug discount program affected list prices? Has it caused cross-subsidization by increasing list prices applicable in the commercial sector? What impact has this had on insurers and payers, including Part D plans? Does the Group Purchasing Organization (GPO) exclusion, the establishment of the Prime Vendor Program, and the current inventory models for tracking 340B drugs increase or decrease prices? What are the unintended consequences of this program? Would explicit general regulatory authority over all elements of the 340B Program materially affect the elements of the program affecting drug pricing?

Program Eligibility. Would changing the definition of ''patient'' or changing the requirements governing covered entities contracting with pharmacies or registering off-site outpatient facilities (*i.e.,* child sites) help refocus the program towards its intended purpose?

Duplicate Discounts. The 340B statute prohibits duplicate discounts. Manufacturers are not required to provide a discounted 340B price and a Medicaid drug rebate for the same drug. Are the current mechanisms for identifying and preventing duplicate discounts effective? Are drug companies paying additional rebates over the statutory 340B discounts for drugs that have been dispensed to 340B patients covered by commercial insurance? What is the impact on drug pricing given that private insurers oftentimes pay commercial rates for drugs purchased at 340B discounts? Do insurers, pharmacy, PBM, or manufacturer contracts consider, address, or otherwise include language regarding drugs purchased at 340B discounts? What should be considered to improve the management and the integrity of claims for drugs provided to 340B patients in the overall insured market? What additional oversight or claims standards are necessary to prevent duplicate discounts in Medicaid and other programs?

D. Reduce Patient Out-of-Pocket Spending

Part D end-of-year statement on drug price changes and rebates collected. Part D plans presently provide their members with an explanation of benefits, which includes information about the negotiated price for each of their dispensed prescriptions, and what the plan, member, and others paid. What additional information could be added about the rate of change in those prices over the course of the benefit year? Alternatively, could pharmacists could be empowered to inform beneficiaries when prices for their drugs have changed? Would this information be best distributed by pharmacists at the point of sale, by Medicare as an annual report, or by the health plan on a more regular basis, or some combination of these approaches? Could CMS improve transparency for Medicare beneficiaries without violating the Part D program's confidentiality protections? What operational challenges or concerns about burden exist with this approach, and how could CMS measure compliance with this approach?

Federal preemption of contracted pharmacy gag clause laws. Right now, some contracts between health plans and pharmacies do not allow the pharmacy to inform a patient that the same drug or a competitor could be purchased at a lower price off-insurance. What purpose do these clauses serve other than to require beneficiaries pay higher out-of-pocket costs? What other communication barriers are in place between pharmacists and patients that could be impeding lower drug prices, out-of-pocket costs, and spending? Should pharmacists be required to ask patients in Federal programs if they'd like information about lower-cost alternatives? What other strategies might be most effective in providing price information to consumers at the point of sale?

Inform Medicare beneficiaries with Medicare Part B and Part D about cost-sharing and lower-cost alternatives. Health plans and pharmacy benefit managers have found new ways to inform prescribers and pharmacists, when prescribing or dispensing a new prescription, about the formulary options, expected cost-sharing, and lower-cost alternatives specific to individual patients. How could these tools reduce out-of-pocket spending for people with Medicare? Is this technology present in all or most electronic prescribing or pharmacy dispensing systems? Should Medicare require the use of systems that support providing this information to patients? What existing systems, tools, or third-party applications could support the creation of these tools? Does the technology exist for this approach to be quickly and inexpensively implemented? Would this increase costs for the Medicare program? Does this create unreasonable burden for prescribers or pharmacists?

E. Additional Feedback

We are interested in all suggestions to improve the affordability and accessibility of prescription drugs, including reflections and answers to questions not specifically asked above. Whenever possible, respondents are asked to draw their responses from objective, empirical, and actionable evidence and to cite this evidence within their responses.

What other regulations or government policies may be increasing list prices, net prices, and out-of-pocket drug spending? What other policies or legislative proposals should HHS consider to lower drug prices while encouraging innovation? What data or evidence should HHS consider when developing proposals to lower drug prices?

HHS is actively working to reduce regulatory burdens. To what extent do current regulations or government policies related to prescription drug pricing impose burden on providers, payers, or others? To what extent do the planned actions described in this document impose burden, and do these burdens outweigh the benefits?

This is a request for information only. Respondents are encouraged to provide complete but concise responses to the questions outlined above. We note that a response to every question is not required. This request for information is issued solely for information and planning purposes; it does not constitute a notice of proposed rulemaking or request for proposals, applications, proposal abstracts, or quotations. This request for information does not commit the United States Government (''Government'') to contract for any supplies or services or make a grant award. Further, HHS is not seeking proposals through this request for information and will not accept unsolicited proposals. Respondents are advised that the Government will not pay for any information or administrative costs incurred in response to this request for information; all costs associated with responding to this request for information will be solely at the interested party's expense.

[2] 340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation, 82 FR 1210, 1227 (Jan. 5, 2017).

[3] Aaron Vandervelde and Eleanor Blalock, Measuring the Relative Size of the 340B Program: 2012–2017, BERKELEY RESEARCH GROUP (July 2017), available at *https://www.thinkbrg.✖ Vandervelde_Measuring340Bsize-July-2017_WEB_FINAL.pdf.*

Not responding to this request for information does not preclude participation in any future rulemaking or procurement, if conducted. It is the responsibility of the potential responders to monitor this request for information announcement for additional information pertaining to this request. We also note that HHS may not respond to questions about the policy issues raised in this request for information. HHS may or may not choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review request for information responses. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this request for information may be used by the Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This request for information should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become Government property and will not be returned. HHS may publicly post the comments received, or a summary thereof. While responses to this request for information do not bind HHS to any further actions related to the response, all submissions will be made publicly available on *http://www.regulations.gov.*

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. This request for information constitutes a general solicitation of comments. In accordance with the implementing regulations of the Paperwork Reduction Act (PRA) at 5 CFR 1320.3(h)(4), information subject to the PRA does not generally include ''facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration of the comment.'' Consequently, this document need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: May 11, 2018.

Alex M. Azar II,

Secretary, Department of Health and Human Services.

[FR Doc. 2018–10435 Filed 5–14–18; 11:15 am]

BILLING CODE 4150–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 of the NHLBI Mentored Transition to Independence Review 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Review Committee.

Date: June 7–8, 2018.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892, 301–435–0287, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: May 10, 2018.

Michelle D. Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10472 Filed 5–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, May 22, 2018, 10:00 a.m. to May 22, 2018, 5:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on May 9, 2018, 83 FR 21301.

The meeting will be held on June 13, 2018 at 11:00 a.m. The meeting location remains the same. The meeting is closed to the public.

Dated: May 10, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10470 Filed 5–15–18; 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 Application Review (2018/10).

Date: June 19–21, 2018.

Time: 6:00 p.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Wild Palms Hotel, 910 East Fremont Avenue, Sunnyvale, CA 94087.

Contact Person: John P. Holden, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707

Democracy Blvd., Suite 920, Bethesda, MD 20892, (301) 496–8775, *john.holden@nih.gov*.

Dated: May 10, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10473 Filed 5–15–18; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Award Review.

Date: June 20–21, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1068, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, 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 1073 Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov*.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Platform Delivery Technologies for Nucleic Acid Therapeutics.

Date: June 26–27, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1080, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jing Chen, 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 *chenjing@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 10, 2018.

David D. Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2018–10471 Filed 5–15–18; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2018–0011; OMB No. 1660—NEW]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Post Disaster Survivor Preparedness Research

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will submit the information collection abstracted below to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995. The submission will describe the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort and resources used by respondents to respond) and cost, and the actual data collection instruments FEMA will use.

DATES: Comments must be submitted on or before June 15, 2018.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *dhsdeskofficer@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Information Management Division, 500 C Street SW, Washington, DC 20472, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Jacqueline Snelling, Senior Advisor, U.S. Department of Homeland Security/FEMA/National Preparedness Directorate, Individual and Community Preparedness Division, Washington, DC 20472–3630, *jacqueline.snelling@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection previously published in the **Federal Register** on February 14, 2018 at 83 FR 6611 with a 60 day public comment period. FEMA received 14 anonymous public comments that were not relevant to the information collection. FEMA noticed a mistake in the number of respondents that results in a change from what was published on February 14, 2018, at 83 FR 6611. The number of respondents has changed from 3,120 to 6,120. FEMA also noted a mistake in the total annual respondent cost from $19,240.00 to $26,299.60. The purpose of this notice is to notify the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for review and clearance.

Collection of Information

Title: Post Disaster Survivor Preparedness Research.

Type of Information Collection: New information collection.

OMB Number: 1660—NEW.

Form Titles and Numbers: FEMA Form 519–0–54, Post Disaster Survivor Preparedness Research.

Abstract: Through improved understanding of the relationship between an individual's preparedness knowledge, actions, and perception and self-efficacy, FEMA will be able to draw some conclusions as to how these factors contribute to and/or hinder life-saving responses and short and long-term recovery, with a focus on historically underserved communities.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,120.

Estimated Number of Responses: 6,120.

Estimated Total Annual Burden Hours: 740.

Estimated Total Annual Respondent Cost: $26,299.60

Estimated Respondents' Operation and Maintenance Costs: $0.

Estimated Respondents' Capital and Start-Up Costs: $0.

Estimated Total Annual Cost to the Federal Government: $186,573.45.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: May 10, 2018.

Rachel Frier,

Records Management Branch Chief, Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2018–10393 Filed 5–15–18; 8:45 am]

BILLING CODE 9111–46–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18EE000101100]

Public Meeting of the National Geospatial Advisory Committee

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, the U.S. Geological Survey (USGS) is publishing this notice to announce that a Federal Advisory Committee meeting of the National Geospatial Advisory Committee (NGAC) will take place.

DATES: The meeting will be held on Tuesday, June 26, 2018 from 8:30 a.m. to 5 p.m., and on Wednesday, June 27, 2018 from 8:30 a.m. to 4 p.m. (Eastern Standard Time).

ADDRESSES: The meeting will be held at the Department of the Interior building, 1849 C Street NW, Washington, DC 20240 in the South Penthouse Conference Room. Send your comments to the Group Federal Officer by email to *gs-faca-mail@usgs.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John Mahoney, Federal Geographic Data Committee (FGDC), U.S. Geological Survey (USGS), 909 First Avenue, Suite 800, Seattle, WA 98104; by email at *jmahoney@usgs.gov*; or by telephone at (206) 220–4621.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552B, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The National Geospatial Advisory Committee (NGAC) provides advice and recommendations related to management of Federal and national geospatial programs, the development of the National Spatial Data Infrastructure, and the implementation of Office of Management and Budget Circular A–16. The NGAC reviews and comments on geospatial policy and management issues and provides a forum to convey views representative of non-federal stakeholders in the geospatial community. The NGAC meeting is one of the primary ways that the FGDC collaborates with its broad network of partners. Additional information about the NGAC meeting is available at: *www.fgdc.gov/ngac.*

Agenda Topics:

—FGDC Update
—Geospatial Data as Services
—Cultural and Historical Geospatial Resources
—Geospatial Platform
—NSDI Strategic Plan Framework
—Landsat Advisory Group

Meeting Accessibility/Special Accommodations: The meeting is open to the public from 8:30 a.m. to 5:00 p.m. on June 26 and from 8:30 a.m. to 4:00 p.m. on June 27. Members of the public wishing to attend the meeting should contact Ms. Lucia Foulkes by email at *lfoulkes@usgs.gov* to register no later than five (5) business days prior to the meeting. Seating may be limited due to room capacity. Individuals requiring special accommodations to access the public meeting should contact Ms. Lucia Foulkes at the email stated above or by telephone at 703–648–4142 at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Public Disclosure of Comments: Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the committee members at the meeting, written comments must be provided to Ms. Lucia Foulkes, Federal Geographic Data Committee (FGDC), U.S. Geological Survey, 12201 Sunrise Valley Drive, MS–590, Reston, VA 20192; by email at *lfoulkes@usgs.gov;* or by telephone at 703–648–4142, at least five (5) business days prior to the meeting. Any written comments received will be provided to the committee members.

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.

Kenneth Shaffer,

Deputy Executive Director, Federal Geographic Data Committee.

[FR Doc. 2018–10419 Filed 5–15–18; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[189D0102DM DS61100000 DLSN00000.000000 DX61101]; [OMB Control Number 1094–0001]

Agency Information Collection Activities; "7 CFR Part 1; 43 CFR Part 45; 50 CFR Part 221; The Alternatives Process in Hydropower Licensing"

AGENCY: Office of the Secretary, Office of Environmental Policy and Compliance, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Office of the Secretary, Office of Environmental Policy and Compliance are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 16, 2018.

ADDRESSES: Send your written comments on this information collection request (ICR) to Shawn Alam, Office of Environmental Policy and Compliance, U.S. Department of the Interior, 1849 C Street NW, MS 5538–MIB, Washington, DC 20240, fax 202–208–6970 or email to *shawn_alam@ios.doi.gov.* Please reference OMB Control Number 1094–0001 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, any explanatory information and related forms, please use the contact

information in the **ADDRESSES** section above.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the Office of the Secretary, Office of Environmental Policy and Compliance Departments; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Office of the Secretary, Office of Environmental Policy and Compliance Departments enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Office of the Secretary, Office of Environmental Policy and Compliance Departments minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The OMB regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)).

On November 23, 2016, the Departments of Agriculture, the Interior, and Commerce published a final rule on the March 31, 2015 revised interim final rule to the interim rule originally published in November 2005 at 7 CFR part 1, 43 CFR part 45, and 50 CFR part 221, to implement section 241 of the Energy Policy Act of 2005 (EP Act), Public Law 109–58, enacted on August 8, 2005. Section 241 of the EP Act added a new section 33 to the Federal Power Act (FPA), 16 U.S.C. 823d, that allowed the license applicant or any other party to the license proceeding to propose an alternative to a condition or prescription that one or more of the Departments develop for inclusion in a hydropower license issued by the Federal Energy Regulatory Commission (FERC) under the FPA. This provision required that the Department of Agriculture, the Department of the Interior, and the Department of Commerce collect the information covered by 1094–0001.

Under FPA section 33, the Secretary of the Department involved must accept the proposed alternative if the Secretary determines, based on substantial evidence provided by a party to the license proceeding or otherwise available to the Secretary, (a) that the alternative condition provides for the adequate protection and utilization of the reservation, or that the alternative prescription will be no less protective than the fishway initially proposed by the Secretary, and (b) that the alternative will either cost significantly less to implement or result in improved operation of the project works for electricity production.

In order to make this determination, the regulations require that all of the following information be collected: (1) A description of the alternative, in an equivalent level of detail to the Department's preliminary condition or prescription; (2) an explanation of how the alternative: (i) If a condition, will provide for the adequate protection and utilization of the reservation; or (ii) if a prescription, will be no less protective than the fishway prescribed by the bureau; (3) an explanation of how the alternative, as compared to the preliminary condition or prescription, will: (i) Cost significantly less to implement; or (ii) result in improved operation of the project works for electricity production; (4) an explanation of how the alternative or revised alternative will affect: (i) Energy supply, distribution, cost, and use; (ii) flood control; (iii) navigation; (iv) water supply; (v) air quality; and (vi) other aspects of environmental quality; and (5) specific citations to any scientific studies, literature, and other documented information relied on to support the proposal.

This notice of proposed renewal of an existing information collection is being published by the Office of Environmental Policy and Compliance, Department of the Interior, on behalf of all three Departments, and the data provided below covers anticipated responses (alternative conditions/prescriptions and associated information) for all three Departments.

Title of Collection: 7 CFR part 1; 43 CFR part 45; 50 CFR part 221; The Alternatives Process in Hydropower Licensing

OMB Control Number: 1094–0001.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Business or for-profit entities.

Total Estimated Number of Annual Respondents: 5.

Total Estimated Number of Annual Responses: 5.

Estimated Completion Time per Response: 500 hours.

Total Estimated Number of Annual Burden Hours: 2,500 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once per alternative proposed.

Total Estimated Annual Nonhour Burden Cost: There are no nonhour burden costs.

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*).

Michaela E. Noble,

Director.

[FR Doc. 2018–10370 Filed 5–15–18; 8:45 am]

BILLING CODE 4334–63–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–25514; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before April 28, 2018, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by May 31, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers

to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before April 28, 2018. Pursuant to Section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

ARKANSAS

Carroll County

Eureka Springs Cemetery, NW of jct. of Cty. Rd. 205 & US 62 E, Eureka Springs vicinity, SG100002535

IOWA

Cerro Gordo County

Elmwood—St. Joseph Municipal Cemetery Historic District, 1224 S Washington Ave., Mason City, SG100002541

MASSACHUSETTS

Plymouth County

Emerson Shoe Company, 51 Maple St., Rockland, SG100002542

OKLAHOMA

Jackson County

Downtown Altus Historic District, Broadway, Main, Hudson & Commerce Sts., Altus, SG100002543

Muskogee County

Thomas, Reverend L.W., Homestead, 5805 Oktaha Rd., Summit vicinity, SG100002544

Oklahoma County

Pioneer Telephone Company Warehouse and Garage, 1–13 NE 6th St., Oklahoma City, SG100002545

Tulsa County

Cheairs Furniture Company Building, 537 S Kenosha Ave., Tulsa, SG100002546

Vernon A.M.E. Church, 311 N Greenwood Ave., Tulsa, SG100002547

Additional documentation has been received for the following resource:

ILLINOIS

Cook County

Emmanuel Episcopal Church, 203 S. Kensington Ave., LaGrange, AD100001922

Authority: Section 60.13 of 36 CFR part 60.

Dated: April 30, 2018.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2018–10371 Filed 5–15–18; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 189R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of *1939,* and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional

office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
O&M Operation and Maintenance
OM&R Operation, Maintenance, and Replacement
P–SMBP Pick-Sloan Missouri Basin Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District

Pacific Northwest Region: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

1. Irrigation, M&I, and Miscellaneous Water Users; Idaho, Oregon, Washington, Montana, and Wyoming: Temporary or interim irrigation and M&I water service, water storage, water right settlement, exchange, miscellaneous use, or water replacement contracts to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Rogue River Basin Water Users, Rogue River Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

3. Willamette Basin Water Users, Willamette Basin Project, Oregon: Water service contracts; $8 per acre-foot per annum.

4. Pioneer Ditch Company, Boise Project, Idaho; Clark and Edwards Canal and Irrigation Company, Enterprise Canal Company, Ltd., Lenroot Canal Company, Liberty Park Canal Company, Poplar ID, all in the Minidoka Project, Idaho; and Juniper Flat District Improvement Company, Wapinitia Project, Oregon: Amendatory repayment and water service contracts; purpose is to conform to the RRA.

5. Nine water user entities of the Arrowrock Division, Boise Project, Idaho: Repayment agreements with districts with spaceholder contracts for repayment, per legislation, of the reimbursable share of costs to rehabilitate Arrowrock Dam Outlet Gates under the O&M program.

6. Three irrigation water user entities, Rogue River Basin Project, Oregon: Long-term contracts for exchange of water service with three entities for the provision of up to 292 acre-feet of stored water from Applegate Reservoir (a USACE project) for irrigation use in exchange for the transfer of out-of-stream water rights from the Little Applegate River to instream flow rights with the State of Oregon for instream flow use.

7. Conagra Foods Lamb Weston, Inc., Columbia Basin Project, Washington: Miscellaneous purposes water service contract providing for the delivery of up to 1,500 acre-feet of water from the Scooteney Wasteway for effluent management.

8. Benton ID, Yakima Project, Washington: Replacement contract to, among other things, withdraw the District from the Sunnyside Division Board of Control; provide for direct payment of the District's share of total operation, maintenance, repair, and replacement costs incurred by the United States in operation of storage division; and establish District responsibility for operation, maintenance, repair, and replacement for irrigation distribution system.

9. City of Prineville and Ochoco ID, Crooked River Project, Oregon: Long-term contract to provide the City of Prineville with a mitigation water supply from Prineville Reservoir; with Ochoco ID anticipated to be a party to the contract, as they are responsible for O&M of the dam and reservoir.

10. Burley and Minidoka IDs, Minidoka Project, Idaho: Supplemental and amendatory contracts to transfer the O&M of the Main South Side Canal Headworks to Burley ID and transfer the O&M of the Main North Side Canal Headworks to the Minidoka ID.

11. Clean Water Services and Tualatin Valley ID, Tualatin Project, Oregon: Long-term water service contract that provides for the District to allow Clean Water Services to beneficially use up to 6,000 acre-feet annually of stored water for water quality improvement.

12. Willow Creek District Improvement Company, Willow Creek Project, Oregon: Amend contract to increase the amount of storage water made available under the existing long-term contract from 2,500 to 3,500 acre-feet.

13. East Columbia Basin ID, Columbia Basin Project, Washington: Amendment of renewal master water service contract No. 159E101882, to authorize up to an additional 70,000 acres within the District that are located within the Odessa Subarea and eligible to participate in the Odessa Groundwater Replacement Program, to receive Columbia Basin Project irrigation water service; and to provide for additional acreage development through future water conservation measures.

14. Stanfield ID, Umatilla Basin Project, Oregon: A short-term water service contract to provide for the use of conjunctive use water, if needed, for the purposes of pre-saturation or for such use in October to extend their irrigation season.

15. Yakima Nation and Cascade ID, Yakima Project, Washington: Long-term contract for an exchange of water and to authorize the use of capacity in Yakima Project facilities to convey up to 10 cubic feet per second of nonproject water during the non-irrigation season for fish hatchery purposes.

16. Talent, Medford, and Rogue River Valley IDs; Rogue River Basin Project; Oregon: Contracts for repayment of reimbursable shares of SOD program modifications for Howard Prairie Dam.

17. Falls ID, Michaud Flats Project, Idaho: Amendment to contract No. 14–06–100–851 to authorize the District to participate in State water rental pool.

Mid-Pacific Region: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

1. Irrigation water districts, individual irrigators, M&I and miscellaneous water users; California, Nevada, and Oregon: Temporary (interim) water service contracts for available project water for irrigation, M&I, or fish and wildlife purposes providing up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts for use of excess capacity in project facilities for terms up to 5 years; temporary conveyance agreements with

the State of California for various purposes; long-term contracts for similar service for up to 1,000 acre-feet annually.

2. Contractors from the American River Division, Delta Division, Cross Valley Canal, San Felipe Division, West San Joaquin Division, San Luis Unit, and Elk Creek Community Services District; CVP; California: Renewal of 30 interim and long-term water service contracts; water quantities for these contracts total in excess of 2.1M acre-feet. These contract actions will be accomplished through long-term renewal contracts pursuant to Public Law 102–575. Prior to completion of negotiation of long-term renewal contracts, existing interim renewal water service contracts may be renewed through successive interim renewal of contracts.

3. Redwood Valley County WD, SRPA, California: Restructuring the repayment schedule pursuant to Public Law 100–516.

4. El Dorado County Water Agency, CVP, California: M&I water service contract to supplement existing water supply. Contract will provide for an amount not to exceed 15,000 acre-feet annually authorized by Public Law 101–514 (Section 206) for El Dorado County Water Agency. The supply will be subcontracted to El Dorado ID and Georgetown Divide Public Utility District.

5. Sutter Extension WD, Delano-Earlimart ID, Pixley ID, the State of California Department of Water Resources, and the State of California Department of Fish and Wildlife; CVP; California: Pursuant to Public Law 102–575, agreements with non-Federal entities for the purpose of providing funding for Central Valley Project Improvement Act refuge water conveyance and/or facilities improvement construction to deliver water for certain Federal wildlife refuges, State wildlife areas, and private wetlands.

6. Horsefly, Klamath, Langell Valley, and Tulelake IDs; Klamath Project; Oregon: Repayment contracts for SOD work on Clear Lake Dam. These districts will share in repayment of costs, and each district will have a separate contract.

7. Casitas Municipal WD, Ventura Project, California: Repayment contract for SOD work on Casitas Dam.

8. Warren Act Contracts, CVP, California: Execution of long-term Warren Act contracts (up to 40 years) with various entities for conveyance of nonproject water in the CVP.

9. Tuolumne Utilities District (formerly Tuolumne Regional WD), CVP, California: Long-term water service contract for up to 9,000 acre-feet from New Melones Reservoir, and possibly a long-term contract for storage of nonproject water in New Melones Reservoir.

10. Madera-Chowchilla Water and Power Authority, CVP, California: Agreement to transfer the OM&R and certain financial and administrative activities related to the Madera Canal and associated works.

11. Sacramento Suburban WD, CVP, California: Execution of a long-term Warren Act contract for conveyance of 29,000 acre-feet of nonproject water. The contract will allow CVP facilities to be used to deliver nonproject water provided from the Placer County Water Agency to the District for use within its service area.

12. Town of Fernley, State of California, City of Reno, City of Sparks, Washoe County, State of Nevada, Truckee-Carson ID, and any other local interest or Native American Tribal Interest who may have negotiated rights under Public Law 101–618; Nevada and California: Contract for the storage of non-Federal water in Truckee River reservoirs as authorized by Public Law 101–618 and the Preliminary Settlement Agreement. The contracts shall be consistent with the Truckee River Water Quality Settlement Agreement and the terms and conditions of the Truckee River Operating Agreement.

13. Delta Lands Reclamation District No. 770, CVP, California: Long-term Warren Act contract for conveyance of up to 300,000 acre-feet of nonproject flood flows via the Friant-Kern Canal for flood control purposes.

14. Pershing County Water Conservation District, Pershing County, and Lander County; Humboldt Project; Nevada: Title transfer of lands and features of the Humboldt Project.

15. Mendota Wildlife Area, CVP, California: Reimbursement agreement between the California Department of Fish and Wildlife and Reclamation for conveyance service costs to deliver Level 2 water to the Mendota Wildlife Area during infrequent periods when the Mendota Pool is down due to unexpected but needed maintenance. This action is taken pursuant to Public Law 102–575, Title 34, Section 3406(d)(1), to meet full Level 2 water needs of the Mendota Wildlife Area.

16. San Luis WD, CVP, California: Proposed partial assignment of 2,400 acre-feet of the District's CVP supply to Santa Nella County WD for M&I use.

17. Placer County Water Agency, CVP, California: Proposed exchange agreement under section 14 of the 1939 Act to exchange up to 71,000 acre-feet annually of the Agency's American River Middle Fork Project water for use by Reclamation, for a like amount of CVP water from the Sacramento River for use by the Agency.

18. Irrigation contractors, Klamath Project, Oregon: Amendment of repayment contracts or negotiation of new contracts to allow for recovery of additional capital costs.

19. Orland Unit Water User's Association, Orland Project, California: Repayment contract for the SOD costs assigned to the irrigation of Stony Gorge Dam.

20. Goleta WD, Cachuma Project, California: An agreement to transfer title of the federally owned distribution system to the District subject to approved legislation.

21. City of Santa Barbara, Cachuma Project, California: Execution of a temporary contract and a long-term Warren Act contract with the City for conveyance of nonproject water in Cachuma Project facilities.

22. Water user entities responsible for payment of O&M costs for Reclamation projects in California, Nevada, and Oregon: Contracts for extraordinary maintenance and replacement funded pursuant to ARRA. Added costs to rates to be collected under irrigation and interim M&I ratesetting policies.

23. Water user entities responsible for payment of O&M costs for Reclamation projects in California, Nevada, and Oregon: Contracts for extraordinary maintenance and replacement funded pursuant to Subtitle G of Public Law 111–11.

24. Cachuma Operation and Maintenance Board, Cachuma Project, California: Amendment to SOD contract No. 01–WC–20–2030 to provide for increased SOD costs associated with Bradbury Dam.

25. Reclamation will become signatory to a three-party conveyance agreement with the Cross Valley Contractors and the California State Department of Water Resources for conveyance of Cross Valley Contractors' CVP water supplies that are made available pursuant to long-term water service contracts.

26. Westlands WD, CVP, California: Negotiation and execution of a long-term repayment contract to provide reimbursement of costs related to the construction of drainage facilities. This action is being undertaken to satisfy the Federal Government's obligation to provide drainage service to Westlands located within the San Luis Unit of the CVP.

27. San Luis WD, Meyers Farms Family Trust, and Reclamation; CVP; California: Revision of an existing

contract between San Luis WD, Meyers Farms Family Trust, and Reclamation providing for an increase in the exchange of water from 6,316 to 10,526 acre-feet annually and an increase in the storage capacity of the bank to 60,000 acre-feet.

28. San Joaquin Valley National Cemetery, U.S. Department of Veteran Affairs; Delta Division, CVP; California: Negotiation of a multi-year wheeling agreement with a retroactive effective date of 2011 is pending. A wheeling agreement with the State of California Department of Water Resources provides for the conveyance and delivery of CVP water through the State of California's water project facilities to the San Joaquin Valley National Cemetery.

29. Byron-Bethany ID, CVP, California: Negotiation of a multi-year wheeling agreement with a retroactive effective date is pending. A wheeling agreement with the State of California Department of Water Resources provides for the conveyance and delivery of CVP water through the State of California's water project facilities, to the Musco Family Olive Company, a customer of Byron-Bethany ID.

30. Contra Costa WD, CVP, California: Amendment to an existing O&M agreement to transfer O&M of the Contra Costa Rock Slough Fish Screen to the District. Initial construction funding provided through ARRA.

31. Irrigation water districts, individual irrigators and M&I water users, CVP, California: Temporary water service contracts for terms not to exceed 1 year for up to 100,000 acre-feet of surplus supplies of CVP water resulting from an unusually large water supply, not otherwise storable for project purposes, or from infrequent and otherwise unmanaged flood flows of short duration.

32. Irrigation water districts, individual irrigators, M&I and miscellaneous water users, CVP, California: Temporary Warren Act contracts for terms up to 5 years providing for use of excess capacity in CVP facilities for annual quantities exceeding 10,000 acre-feet.

33. City of Redding, CVP, California: Proposed partial assignment of 30 acre-feet of the City of Redding's CVP water supply to the City of Shasta Lake for M&I use.

34. Langell Valley ID, Klamath Project; Oregon: Title transfer of lands and facilities of the Klamath Project.

35. Sacramento River Division, CVP, California: Administrative assignments of various Sacramento River Settlement Contracts.

36. California Department of Fish and Game, CVP, California: To extend the term of and amend the existing water service contract for the Department's San Joaquin Fish Hatchery to allow an increase from 35 to 60 cubic feet per second of continuous flow to pass through the Hatchery prior to it returning to the San Joaquin River.

37. Orland Unit Water User's Association, Orland Project, California: Title transfer of lands and features of the Orland Project.

38. Santa Clara Valley WD, CVP, California: Second amendment to Santa Clara Valley WD's water service contract to add CVP-wide form of contract language providing for mutually agreed upon point or points of delivery.

39. PacifiCorp, Klamath Project, Oregon and California: Transfer of O&M of Link River Dam and associated facilities. Contract will allow for the continued O&M by PacifiCorp.

40. Tulelake ID, Klamath Project, Oregon and California: Transfer of O&M of Station 48 and gate on Drain No. 1, Lost River Diversion Channel.

41. Fresno County Waterworks No. 18; Friant Division, CVP; California: Execution of an agreement to provide for the O&M of select Federal facilities by Fresno County Waterworks No. 18.

42. U.S. Fish and Wildlife Service, Tulelake ID; Klamath Project; Oregon and California: Water service contract for deliveries to Lower Klamath National Wildlife Refuge, including transfer of O&M responsibilities for the P Canal system.

43. Tulelake ID, Klamath Project, Oregon and California: Amendment of repayment contract to eliminate reimbursement for P Canal O&M costs.

44. East Bay Municipal Utility District, CVP, California: Long-term Warren Act contract for storage and conveyance of up to 47,000 acre-feet annually.

45. Gray Lodge Wildlife Area, CVP, California: Reimbursement agreement between the California Department of Fish and Wildlife and Reclamation for groundwater pumping costs. Groundwater will provide a portion of Gray Lodge Wildlife Area's Central Valley Improvement Act Level 4 water supplies. This action is taken pursuant to Public Law 102–575, Title 34, Section 3406(d)(1, 2 and 5), to meet full Level 4 water needs of the Gray Lodge Wildlife Area.

46. State of Nevada, Newlands Project, Nevada: Title transfer of lands and features of the Carson Lake and Pasture.

47. Washoe County Water Conservation District, Truckee Storage Project, Nevada: Repayment contract for costs associated with SOD work on Boca Dam.

48. Del Puerto WD, CVP, California: Negotiation of a short-term wheeling agreement with the State of California, Department of Water Resources to provide for the conveyance and delivery of CVP water through the State of California's water project facilities to Del Puerto Water District via a state water project contractor.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

1. Milton and Jean Phillips, BCP, Arizona: Develop a Colorado River water delivery contract for 60 acre-feet of Colorado River water per year as recommended by the Arizona Department of Water Resources.

2. Gila Project Works, Gila Project, Arizona: Perform title transfer of facilities and certain lands in the Wellton-Mohawk Division from the United States to the Wellton-Mohawk IDD.

3. Bard WD, Yuma Project, California: Supersede and replace the District's O&M contract for the Yuma Project, California, Reservation Division, Indian Unit, to reflect that appropriated funds are no longer available, and to specify an alternate process for transfer of funds. In addition, other miscellaneous processes required for Reclamation's contractual administration and oversight will be updated to ensure the Federal Indian Trust obligation for reservation water and land are met.

4. Ogram Farms, BCP, Arizona: Assign the contract to the new landowners and revise Exhibit A of the contract to change the contract service area and points of diversion/delivery.

5. Ogram Boys Enterprises, Inc., BCP, Arizona: Revise Exhibit A of the contract to change the contract service area and points of diversion/delivery.

6. City of Yuma, BCP, Arizona: Enter into a long-term consolidated contract with the City for delivery of its Colorado River water entitlement.

7. Gold Dome Mining Corporation and Wellton-Mohawk IDD, Gila Project, Arizona: Terminate contract No. 0–07–30–W0250 pursuant to Articles 11(d) and 11(e).

8. Estates of Anna R. Roy and Edward P. Roy, Gila Project, Arizona: Terminate contract No. 6–07–30–W0124 pursuant to Article 9(c).

9. Reclamation, Davis Dam (Davis Dam) and Big Bend WD; BCP; Arizona and Nevada: Enter into proposed ''Agreement for the Diversion, Treatment, and Delivery of Colorado River Water'' in order for the District to

divert, treat, and deliver to Davis Dam the Davis Dam Secretarial Reservation amount of up to 100 acre-feet per year of Colorado River water.

10. Cibola Valley IDD and Western Water, LLC, BCP, Arizona: Execute a proposed partial assignment of fourth priority Colorado River water in the amount of 621.48 acre-feet per year from the District to Western Water, LLC and a new Colorado River water delivery contract with Western Water, LLC.

11. Red River Land Company, LLC; BCP; Arizona: Review and approve a proposed partial assignment of 300 acre-feet per year of Arizona fourth priority Colorado River water entitlement from Cibola Valley IDD to Red River and execute the associated amendment to Cibola Valley IDD's contract and enter into a Colorado River water delivery contract with Red River.

12. Mohave County Water Authority, BCP, Arizona: Execute Exhibit B, Revision 6 that will supersede and replace Exhibit B, Revision 5 to the Authority's Colorado River water delivery contract in order to update the annual diversion amounts to be used within each of the contract service areas.

13. Rayner Ranches, BCP, Arizona: Review and approve a proposed assignment of Rayner Ranches Colorado River water delivery contract for 4,500 acre-feet per year to GM Gabrych Family, LP and execute a new Colorado River water delivery contract with GM Gabrych Family, LP.

14. Sarah S. Chesney, BCP, Arizona: Review and approve a proposed assignment of Sarah S. Chesney's contract for the conveyance of Colorado River water from Sarah S. Chesney to WPI II—COL FARM AZ, LLC.

15. San Carlos Apache Tribe and the Town of Gilbert, CAP, Arizona: Execute a proposed 100-year lease not to exceed 5,925 acre-feet per year of CAP water from the Tribe to Gilbert.

16. San Carlos Apache Tribe and the Town of Gilbert, CAP, Arizona: Execute amendment No. 7 to a CAP water lease to extend the term of the lease in order for San Carlos Apache Tribe to lease 20,000 acre-feet of its CAP water to the Town of Gilbert during calendar year 2018.

17. Fort McDowell Yavapai Nation and the Town of Gilbert, CAP, Arizona: Execute amendment No. 6 to a CAP water lease to extend the term of the lease in order for Fort McDowell Yavapai Nation to lease 13,933 acre-feet of its CAP water to the Town of Gilbert during calendar year 2018.

18. San Carlos Apache Tribe and the Pascua Yaqui Tribe, CAP, Arizona: Execute a CAP water lease in order for the San Carlos Apache Tribe to lease 500 acre-feet of its CAP water to the Pascua Yaqui Tribe during calendar year 2018.

19. San Carlos Apache Tribe and Freeport Minerals Corporation, CAP, Arizona: Execute a CAP water lease in order for the San Carlos Apache Tribe to lease 17,010 acre-feet of its CAP water to Freeport Minerals Corporation during calendar year 2018.

Discontinued contract action:

1. (11) Reclamation, Arizona Department of Water Resources, Arizona Water Banking Authority, Central Arizona Water Conservation District, Southern Nevada Water Authority, and The Metropolitan Water District of Southern California; BCP; Arizona, California and Nevada: Begin negotiations to enter into proposed ''Storage and Interstate Release Agreement(s)'' for creation, offstream storage, and release of unused basic or surplus Colorado River apportionment within the lower division states pursuant to 43 CFR part 414.

Completed contract action:

1. (23) Imperial ID, Lower Colorado River Water Supply Project, California: Amend the agreement between Reclamation and Imperial ID to extend the term for the funding of design, construction, and installation of power facilities for the Lower Colorado Water Supply Project. Contract executed October 25, 2017.

Upper Colorado Region: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

1. Individual irrigators, M&I, and miscellaneous water users; Initial Units, CRSP; Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 10 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Contracts with various water user entities responsible for payment of O&M costs for Reclamation projects in Arizona, Colorado, New Mexico, Texas, Utah, and Wyoming: Contracts for extraordinary maintenance and replacement funded pursuant to Subtitle G of Public Law 111–11 to be executed as project progresses.

3. Middle Rio Grande Project, New Mexico: Reclamation continues annual leasing of water from various San Juan-Chama Project contractors to stabilize flows in a critical reach of the Rio Grande in order to meet the needs of irrigators and preserve habitat for the silvery minnow. Reclamation leased approximately 15,067 acre-feet of water from San Juan-Chama Project contractors in 2017.

4. Bridger Valley Water Conservancy District, Lyman Project, Wyoming: The District has requested that its Meeks Cabin repayment contract be amended from two 25-year contacts to one 40-year contract, or that the second 25-year contract be negotiated, as outlined in the original contract.

5. Strawberry High Line Canal Company, Strawberry Valley Project; Utah: The Strawberry High Line Canal Company has requested to allow for the carriage of nonproject water held by McMullin Orchards in the High Line Canal.

6. Grand Valley Water Users Association and Orchard Mesa ID, Grand Valley Project, Colorado: A contract under the Upper Colorado Recovery Program for delivery of non-project water to the Grand Valley Power Plant. The U.S. Fish and Wildlife Service will also be a party to the contract.

7. Eden Valley IDD, Eden Project, Wyoming: The District proposes to raise the level of Big Sandy Dam to fully perfect its water rights. A supplemental O&M agreement will be necessary to obtain the authorization to modify Federal facilities.

8. Tri-County Water Conservancy District, Dallas Creek Project, Colorado: A contract under the Upper Colorado Recovery Program to construct and transfer O&M of a fish barrier net at Dallas Creek Project. The State of Colorado, Colorado Parks and Wildlife Department will also be a party to the contract.

9. Dolores Water Conservancy District, Dolores Project, Colorado: The District has requested a contract amendment to update articles related to releases for downstream uses.

10. Newton Water Users Association, Newton Project; Utah: The Utah Division of Wildlife Resources desires to install a fish screen on the outlet works of Newton Dam. This requires an agreement to approve modification to Federal Reclamation facilities.

11. Pojoaque Valley ID, San Juan-Chama Project, New Mexico: An amendment to the repayment contract to reflect the changed allocations as a result of the Aamodt Litigation Settlement Act (Title VI of the Claims Resolution Act of 2010, Pub. L. 111–291, December 8, 2010) is being discussed.

12. South Cache Water Users Association, Hyrum Project, Utah: Problems with the spillway at Hyrum Dam require the construction of a new spillway under the SOD Act, as amended. A repayment contract is

necessary to recover 15 percent of the construction costs in accordance with the SOD Act.

13. Uintah Water Conservancy District; Vernal Unit, CUP; Utah: Due to sloughing on the face of Steinaker Dam north of Vernal, Utah, a SOD fix authorized under the SOD Act may be necessary to perform the various functions needed to bring Steinaker Reservoir back to full capacity. This will require a repayment contract with the United States.

14. Salt River Project Agricultural Improvement and Power District, Salt River Project; Glen Canyon Unit, CRSP; Arizona: The District has requested an extension of its existing contract from 2034 through 2044. This action is awaiting further development by the District.

15. Dolores Water Conservancy District, Dolores Project, Colorado: The District has requested a water service contract for 1,402 acre-feet of newly identified project water for irrigation. The proposed water service contract will provide 417 acre-feet of project water for irrigation of the Ute Enterprise and 985 acre-feet for use by the District's full-service irrigators.

16. Utah Division of State Parks, Utah: Requested an early renewal of its 11 State Parks Agreements for recreation management at various Reclamation Reservoirs.

17. State of Wyoming, Seedskadee Project; Wyoming. The Wyoming Water Development Commission is interested in purchasing an additional 65,000 acre-feet of M&I water from Fontenelle Reservoir.

18. Ute Indian Tribe of the Uinta and Ouray Reservation, CUP, Utah: The Ute Indian Tribe of the Uinta and Ouray Reservation has requested the use of excess capacity in the Strawberry Aqueduct and Collection System, as authorized in the CUP Completion Act legislation.

19. Ute Indian Tribe of the Uinta and Ouray Reservation; Flaming Gorge Unit, CRSP; Utah: As part of discussions on settlement of a potential compact, the Ute Indian Tribe of the Uinta and Ouray Reservation has indicated interest in storage of its potential water right in Flaming Gorge Reservoir.

20. State of Utah; Flaming Gorge Unit, CRSP; Utah: The State of Utah has requested contracts that will allow the full development and use of the CUP Ultimate Phase water right of 158,000 acre-feet of depletion, which was previously assigned to the State of Utah.

21. Weber Basin Water Conservancy District, Weber Basin Project, Utah: The District has requested permission to install a low-flow hydro-electric generation plant at Causey Reservoir to take advantage of winter releases. This will likely be accomplished through a supplemental O&M contract.

22. Central Utah Water Conservancy District; Bonneville Unit, CUP; Utah: The District has received a request to convert 300 acre-feet of irrigation water in Wasatch County to M&I purposes. This will require an amended block notice.

23. Mancos Water Conservancy District, Mancos Project, Colorado: Proposed preliminary lease and funding agreement for preliminary work associated with potential lease of power privilege.

24. Mancos Water Conservancy District, Mancos Project, Colorado: Proposed funding agreement for preliminary work associated with the evaluation of title transfer.

25. Collbran Water Conservancy District, Collbran Project, Colorado: Laramie Energy has requested a water exchange contract.

26. Mancos Water Conservancy District, Mancos Project, Colorado: The District and Reclamation are discussing an amendment to the Public Law 111–11 repayment contract for rehabilitation of the Jackson Gulch facilities to continue to facilitate the District's ability to receive funding under the legislation.

27. Collbran Water Conservancy District, Collbran Project, Colorado: The District has requested an exchange contract with William Morse for exchange of water on the Collbran Project.

28. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado: Ute Mountain Ute Tribe has requested a water delivery contract for 16,525 acre-feet of M&I water; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554).

29. Navajo-Gallup Water Supply Project, New Mexico: Reclamation continues negotiations on an OM&R transfer contract with the Navajo Tribal Utility Authority pursuant to Public Law 111–11, Section 10602(f) which transfers responsibilities to carry out the OM&R of transferred works of the Project; ensures the continuation of the intended benefits of the Project; distribution of water; and sets forth the allocation and payment of annual OM&R costs of the Project.

30. Animas-La Plata Project, Colorado-New Mexico: (a) Navajo Nation title transfer agreement for the Navajo Nation Municipal Pipeline for facilities and land outside the corporate boundaries of the City of Farmington, New Mexico; contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554) and the Northwestern New Mexico Rural Water Projects Act (Title X of Pub. L. 111–11); (b) City of Farmington, New Mexico, title transfer agreement for the Navajo Nation Municipal Pipeline for facilities and land inside the corporate boundaries of the City of Farmington; New Mexico, contract terms to be consistent with the Colorado Ute Settlement Act Amendments of 2000 (Title III of Pub. L. 106–554) and the Northwestern New Mexico Rural Water Projects Act (Title X of Pub. L. 111–11); and (c) Operations agreement among the United States, Navajo Nation, and City of Farmington for the Navajo Nation Municipal Pipeline pursuant to Public Law 111–11, Section 10605(b)(1) that sets forth any terms and conditions that secures an operations protocol for the M&I water supply.

31. Weber Basin Water Conservancy District, Weber Basin Project, Utah: The District has requested a contract to allow the storage of Weber Basin Project water in Smith Morehouse Reservoir under the authority of Section 14 of the Reclamation Projects Act of 1939.

32. Strawberry High Line Canal Company, Strawberry Valley Project; Utah: The Strawberry High Line Canal Company has requested a conversion of up to 20,000 acre-feet of irrigation water to be allowed for miscellaneous use.

33. Emery County Water Conservancy District, Emery County Project, Utah: The District has requested to convert 79 acre-feet of Cottonwood Creek Consolidated Irrigation Company water from irrigation to M&I uses.

34. City of Page, Arizona; Glen Canyon Unit, CRSP; Arizona: Request for a long-term contract for 975 acre-feet of water for municipal purposes.

Discontinued contract actions:

1. (11) Newton Water Users Association, Newton Project; Utah: The Utah Division of Wildlife Resources desires to install a fish screen on the outlet works of Newton Dam. This requires a supplementary O&M agreement to approve modification to Federal Reclamation facilities.

2. (13) Weber Basin Water Conservancy District, A.V. Watkins Dam, Utah: The United States intends to enter into an implementation agreement with the District giving the District the authority to modify Federal facilities to raise the crest of A.V. Watkins Dam.

Completed contract actions:

1. (5) Ephraim Irrigation Company, Sanpete Project, Utah: The Company proposes to enclose the Ephraim Tunnel with a 54-inch pipe. A supplemental O&M agreement will be necessary to

obtain the authorization to modify Federal facilities. Agreement executed April 19, 2017.

2. (35) VBC Owners Association; Aspinall Unit, CRSP; Colorado: The association has requested a long-term water service contract for 8 acre-feet of water out of the Aspinall Unit, CRSP. Contract executed September 11, 2017.

3. (39) Florida Water Conservancy District, Florida Project, Colorado: The United States and the District, pursuant to Section 4 of the CRSP, and subsection 9(c)(2) of the Reclamation Projects Act of 1939, propose to execute a water service contract for 2,500 acre-feet of Florida Project water for M&I and other miscellaneous beneficial uses, other than commercial agricultural irrigation, within the District boundaries in La Plata County, Colorado. Contract executed October 18, 2017.

Great Plains Region: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

1. Irrigation, M&I, and miscellaneous water users; Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Water service contracts for the sale, conveyance, storage, and exchange of surplus project water and nonproject water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for a term of up to 1 year, or up to 1,000 acre-feet of water annually for a term of up to 40 years.

2. Water user entities responsible for payment of O&M costs for Reclamation projects in Colorado, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Contracts for extraordinary maintenance and replacement funded pursuant to Subtitle G of Public Law 111–11.

3. Green Mountain Reservoir, Colorado-Big Thompson Project, Colorado: Water service contracts for irrigation and M&I; contracts for the sale of water from the marketable yield to water users within the Colorado River Basin of western Colorado.

4. Garrison Diversion Conservancy District, Garrison Diversion Unit, P–SMBP, North Dakota: Intent to modify long-term water service contract to add additional irrigated acres.

5. Fryingpan-Arkansas Project, Colorado: Consideration of excess capacity contracting in the Fryingpan-Arkansas Project.

6. Colorado-Big Thompson Project, Colorado: Consideration of excess capacity contracting in the Colorado-Big Thompson Project.

7. Roger W. Evans (Individual); Boysen Unit, P–SMBP; Wyoming: Renewal of long-term water service contract.

8. Busk-Ivanhoe, Inc., Fryingpan-Arkansas Project, Colorado: Contract for long-term carriage and storage, and/or a new contract for an additional use of water.

9. State of Kansas Department of Wildlife and Parks; Glen Elder Unit, P–SMBP; Kansas: Intent to enter into a contract for the remaining conservation storage in Waconda Lake for recreation and fish and wildlife purposes.

10. Arkansas Valley Conduit, Fryingpan-Arkansas Project, Colorado: Consideration of a repayment contract for the Arkansas Valley Conduit, and signing a contract to use infrastructure owned by the Pueblo Board of Water Works.

11. Donala Water and Sanitation District, Fryingpan-Arkansas Project, Colorado: Consideration of a long-term excess capacity contract.

12. Purgatoire Water Conservancy District, Trinidad Project, Colorado: Consideration of a request to amend the contract.

13. Central Oklahoma Master Conservancy District, Norman Project, Oklahoma: Amend existing contract No. 14–06–500–590 to execute a separate contract(s) to allow for importation and storage of nonproject water in accordance with the Lake Thunderbird Efficient Use Act of 2012.

14. Tom Green County Water Control and Improvement District No. 1, San Angelo Project, Texas: Consideration of a potential contract(s) for use of excess capacity by individual landowner(s) for irrigation purposes.

15. Western Heart River ID; Heart Butte Unit, P–SMBP; North Dakota: Consideration of amending the long-term irrigation repayment contract and project-use power contract to include additional acres.

16. Dickinson-Heart River Mutual Aid Corporation; Dickinson Unit, Heart Division; P–SMBP; North Dakota: Consideration of amending the long-term irrigation water service contract to modify the acres irrigated.

17. Buford-Trenton ID, Buford-Trenton Project, P–SMBP; North Dakota: Consideration of amending the long-term irrigation power repayment contract and project-use power contract to include additional acres.

18. Milk River Project, Montana: Proposed amendment to contracts to reflect current landownership.

19. Glen Elder ID No. 8; Glen Elder Unit, P–SMBP; Kansas: Consideration to renew long-term water service contract No. 2–07–60–W0855.

20. Town of Estes Park, Colorado-Big Thompson Project, Colorado: Consideration of a renewal of contract with the Town of Estes Park.

21. Bureau of Land Management, Fryingpan-Arkansas Project, Colorado: Consideration of excess capacity contracting to store water in the Fryingpan-Arkansas Project.

22. Southeastern Colorado Water Conservancy District, Fryingpan-Arkansas Project, Colorado: Consideration of amending contract No. 5–07–70–W0086 and convert or renew contract No. 5–07–70–W0086.

23. Fresno Dam, Milk River Project, Montana: Consideration of contract(s) for repayment of SOD costs.

24. Western Heart River ID; Heart Butte Unit, P–SMBP; North Dakota: Consideration of contract for repayment of SOD costs.

25. Keyhole Country Club; Keyhole Unit, P–SMBP; North Dakota: Consideration of renewal of contract No. 8–07–60–WS042.

26. Canyon Ferry Water Users Association; Canyon Ferry Unit, P–SMBP;

Montana: Consideration for new long-term repayment contract.

27. City of Thermopolis; Boysen Unit, P–SMBP; Wyoming: Consideration for renewal of long-term water service contract No. 8–07–WS050 with the City of Thermopolis.

28. Kansas Bostwick ID, Bostwick Division, P–SMBP, Kansas: Consideration of an excess capacity contract to store water in Harlan County Lake.

Discontinued contract action:

1. (7) Northern Integrated Supply Project, Colorado-Big Thompson Project, Colorado: Consideration of a new long-term contract with approximately 15 regional water suppliers and the Northern Colorado Water Conservancy District for the Northern Integrated Supply Project.

Dated: February 12, 2018.

Ruth Welch,

Director, Policy and Administration.

[FR Doc. 2018–10412 Filed 5–15–18; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02054000, 18XR0687NA, RX.18527901.3000000]

Central Valley Project Improvement Act Water Management Plans

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Reclamation has made available to the public the Water Management Plans for twelve entities. For the purpose of this announcement, Water Management Plans (Plans) are considered the same as Water Conservation Plans. Reclamation is publishing this notice in order to allow the public an opportunity to review the Plans and comment on the preliminary determinations.

DATES: Submit written comments on the preliminary determinations on or before June 15, 2018.

ADDRESSES: Send written comments to Ms. Charlene Stemen, Bureau of Reclamation, 2800 Cottage Way, MP–400, Sacramento, CA 95825; or via email at *cstemen@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: To be placed on a mailing list for any subsequent information, please contact Ms. Charlene Stemen at *cstemen@usbr.gov,* or at 916–978–5218 (TDD 978–5608).

SUPPLEMENTARY INFORMATION: Section 3405(e) of the Central Valley Project Improvement Act (Title 34 Pub. L. 102–575), requires the Secretary of the Interior to, amongst other things, ''develop criteria for evaluating the adequacy of all water conservation plans'' developed by certain contractors. According to Section 3405(e)(1), these criteria must promote, ''the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices.'' In accordance with this legislative mandate, the Bureau of Reclamation developed and published the Criteria for Evaluating Water Management Plans (Criteria). Each of the twelve entities listed below developed a Plan that Reclamation evaluated and preliminarily determined meets the requirements of the Criteria. The following Plans are available for review:

- City of Roseville
- City of Santa Barbara
- Contra Costa Water District
- Del Puerto Water District
- Dunnigan Water District
- East Bay Municipal Utilities District
- El Dorado Irrigation District
- Proberta Water District
- Santa Clara Valley Water District
- Shafter-Wasco Irrigation District
- Truckee-Carson Irrigation District
- Tulelake Irrigation District

We invite the public to comment on our preliminary (*i.e.,* draft) determination of Plan adequacy. A copy of these Plans will be available for review at Reclamation's Mid-Pacific Regional Office, 2800 Cottage Way, MP–410, Sacramento, CA 95825. If you wish to review a copy of these Plans, please contact Ms. Stemen.

Public Disclosure

Our practice is to make comments, including names and home addresses of respondents, available for public review. 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 we will be able to do so.

Dated: May 8, 2018.

Richard J. Woodley,

Regional Resources Manager, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 2018–10409 Filed 5–15–18; 8:45 am]

BILLING CODE 4332–90–P

DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

[Docket ID BSEE–2018–0009; 189E1700D2 ET1SF0000.PSB000.EEEE500000; OMB Control Number 1014–0024]

Agency Information Collection Activities; Plans and Information

AGENCY: Bureau of Safety and Environmental Enforcement, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Safety and Environmental Enforcement (BSEE) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before July 16, 2018.

ADDRESSES: Send your comments on this information collection request (ICR) by either of the following methods listed below:

- Electronically go to *http://www.regulations.gov.* In the Search box, enter BSEE–2018–0009 then click search. Follow the instructions to submit public comments and view all related materials. We will post all comments.
- Email *kye.mason@bsee.gov,* fax (703) 787–1546, or mail or hand-carry comments to the Department of the Interior; Bureau of Safety and Environmental Enforcement; Regulations and Standards Branch; ATTN: Nicole Mason; 45600 Woodland Road, Sterling, VA 20166. Please reference OMB Control Number 1014–0024 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Nicole Mason by email at *kye.mason@bsee.gov* or by telephone at (703) 787–1607.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comments addressing the following issues: (1) Is the collection necessary to the proper functions of BSEE; (2) Will this information be processed and used in a timely manner; (3) Is the estimate of burden accurate; (4) How might BSEE enhance the quality, utility, and clarity of the information to be collected; and (5) How might BSEE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 30 CFR part 250, subpart B, concern plans and information and are the subject of this collection. This request also covers any related Notices to Lessees and Operators (NTLs) that BSEE issues to clarify, supplement, or provide additional guidance on some aspects of our regulations.

Post-Approval Requirements for the Exploration Plans, Development and

Production Plans, and Development Operation Coordination Document: While the information is submitted to the Bureau of Ocean Energy Management, BSEE analyzes and evaluates the information and data collected under this section of subpart B to verify that an ongoing/completed OCS operation is/was conducted in compliance with established environmental standards placed on the activity.

Deepwater Operations Plan (DWOP): BSEE analyzes and evaluates the information and data collected under this section of subpart B to ensure that planned operations are safe; will not adversely affect the marine, coastal, or human environment; and will conserve the resources of the OCS. We use the information to make an informed decision on whether to approve the proposed DWOPs, or whether modifications are necessary without the analysis and evaluation of the required information.

Title of Collection: 30 CFR part 250, subpart B, *Plans and Information.*

OMB Control Number: 1014–0024.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Potential respondents comprise Federal OCS oil, gas, and sulfur lessees/operators and holders of pipeline rights-of-way.

Total Estimated Number of Annual Respondents: Varies, not all potential respondents will submit information in any given year and some may submit multiple times.

Total Estimated Number of Annual Responses: 64.

Estimated Completion Time per Response: Varies from 180 hours to 1,140 hours, depending on activity.

Total Estimated Number of Annual Burden Hours: 37,084.

Respondent's Obligation: Most responses are mandatory, while others are required to obtain or retain benefits.

Frequency of Collection: Submissions are generally on occasion.

Total Estimated Annual Nonhour Burden Cost: $39,589. Submission of a DWOP (§ 250.292) requires a cost recovery fee of $3,599.

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*).

Dated: March 5, 2018.

Doug Morris,

Chief, Office of Offshore Regulatory Programs.

[FR Doc. 2018–10415 Filed 5–15–18; 8:45 am]

BILLING CODE 4310–VH–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1046]

Certain Non-Volatile Memory Devices and Products Containing the Same; Notice of Request for Statement on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a Final Initial Determination and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order directed to respondents Toshiba Corporation of Tokyo, Japan; Toshiba Memory Corporation of Tokyo, Japan; Toshiba America, Inc. of New York, New York; Toshiba America Electronic Components, Inc. of Irvine, California; Toshiba America Information Systems, Inc. of Irvine, California; and Toshiba Information Equipment (Philippines), Inc. of Binan, Philippines, and cease and desist orders directed to the domestic respondents. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to Commission rules.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3042. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server (*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*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in these investigations. Accordingly, parties are to file public interest submissions pursuant to pursuant to 19 CFR 210.50(a)(4). In addition, members of the public are hereby invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on May 10, 2018. Comments should address whether issuance of a limited exclusion order and cease and desist orders in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist orders would impact consumers in the United States.

Written submissions from the public must be filed no later than by close of business on June 5, 2018.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1016'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 11, 2018.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2018–10451 Filed 5–15–18; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board; Notice of Meeting

This notice announces a forthcoming meeting of the National Institute of Corrections (NIC) Advisory Board. The meeting will be open to the public, with one portion closed to the public.

Name of the Committee: NIC Advisory Board.

General Function of the Committee: To aid the National Institute of Corrections in developing long-range plans, advise on program development, and recommend guidance to assist NIC's efforts in the areas of training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies.

Date and Time: 8:00 a.m.–4:30 p.m. on Thursday, June 21, 2018; 8:00 a.m.–11:00 a.m. on Friday, June 22, 2018

Location: National Institute of Corrections, 500 First Street NW, 2nd Floor, Washington, DC 20534, (202) 514–4202.

Contact Person: Shaina Vanek, Acting Director, National Institute of Corrections, 320 First Street NW, Room 5002, Washington, DC 20534. To contact Ms. Vanek, please call (202) 514–4202.

Agenda: On June 21, 2018, the Advisory Board will discuss/address the following topics:

(1) Agency Report from the NIC Acting Director,

(2) briefings on current activities and future goals, and

(3) updates from partner agencies and associations. On June 22, 2018, the Advisory Board will discuss the NIC Director candidates, the status of the position, and the related appointment process.

Procedure: On June 21, 2018, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 8, 2018. Oral presentations from the public will be scheduled between approximately 11:15 a.m. to 11:45 a.m. and 3:45 p.m. and 4:15 p.m. on June 21, 2018. Time allotted for each presentation may be limited. Those desiring to make 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 June 8, 2018.

Closed Committee Deliberations: June 22, 2018, between 8:00 a.m. and 11:00 a.m., the meeting will be closed to permit discussion of information that (1) relates solely to the internal personnel rules and practices of an agency (5 U.S.C. 552b(c)(2)), and (2) is of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The Advisory Board will discuss the NIC Director candidates and recommendations made to the U.S. Attorney General, the status of the position, and the related appointment process.

General Information: NIC welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Shaina Vanek at least 7 days in advance of the meeting. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Shaina Vanek,

Acting Director, National Institute of Corrections.

[FR Doc. 2018–10406 Filed 5–15–18; 8:45 am]

BILLING CODE 4410–36–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, May 22, 2018.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW, Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

57905 Highway Special Investigation Report—Selective Issues in School Bus Transportation Safety: Crashes in Baltimore, Maryland, and Chattanooga, Tennessee.

News Media Contact: Telephone: (202) 314–6100

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle McCallister at (202) 314–6305 or by email at *Rochelle.McCallister@ntsb.gov* by Wednesday, May 16, 2018.

The public may view the meeting via a live or archived webcast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov.*

CONTACT PERSON FOR MORE INFORMATION: Candi Bing at (202) 314–6403 or by email at *bingc@ntsb.gov.*

For Media Information Contact: Keith Holloway at (202) 314–6100 or by email at *keith.holloway@ntsb.gov.*

Monday, May 14, 2018.

LaSean McCray,

Assistant Federal Register Liaison Officer.

[FR Doc. 2018–10537 Filed 5–14–18; 11:15 am]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

Docket No. 72–1051; NRC–2018–0052]

Holtec International HI–STORE Consolidated Interim Storage Facility Project

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental impact statement; public scoping comment meetings; extension of comment period.

SUMMARY: On March 30, 2018, the U.S. Nuclear Regulatory Commission (NRC) published in the **Federal Register** a notice of its intent to prepare an environmental impact statement (EIS) and requested public comments on the scope of its environmental review of Holtec International's (Holtec) application for the HI–STORE Combined Interim Storage Facility (CISF). The NRC is announcing two additional local public comment scoping meetings, an extension of the comment period, and an additional method to submit scoping comments by email.

DATES: The due date of comments requested in the document published on March 30, 2018 (83 FR 13802) is extended. Comments should be filed no later than July 30, 2018. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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–2018–0052. 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.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.
- *Email comments to: Holtec-CISFEIS@nrc.gov.*

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jill Caverly, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–7674; email: *Jill.Caverly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0052 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2018–0052.
- *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.
- *Project web page:* Information related to the Holtec HI–STORE CISF project can be accessed on the NRC's Holtec HI–STORE CISF web page at *https://www.nrc.gov/waste/spent-fuel-storage/cis/holtec-international.html.*
- *Public Libraries:* A copy of the application's Environmental Report can be accessed at the following public libraries: Carlsbad Public Library, 101 S. Halegueno Street, Carlsbad, NM 88220; Hobbs Public Library, 509 N. Shipp St., Hobbs, NM 88240; or Roswell Public Library, 301 N. Pennsylvania, Roswell, NM 88201.

B. Submitting Comments

Please include Docket ID NRC–2018–0052 in your comment submission. Written comments may be submitted during the scoping period as described in the **ADDRESSES** section of this document.

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 posts all comment submissions at *http://www.regulations.gov* and enters all 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, because the NRC does not routinely edit comment submissions before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Meeting Information

On March 30, 2018 (83 FR 13802), the NRC published in the **Federal Register** a notice of its intent to prepare an EIS on Holtec's proposed CISF for spent nuclear fuel and requested public comments on the scope of the EIS. The NRC has already held three local public meetings in Roswell, New Mexico; Hobbs, New Mexico; and Carlsbad, New Mexico, as well as one webinar and a public meeting at NRC headquarters in Rockville, Maryland. The NRC is announcing two additional local public scoping meetings in Gallup, New Mexico, and Albuquerque, New Mexico. The dates and times for the open houses and public meetings are as follows:

Meeting	Date	Time	Location
Open House and Public Scoping Meeting	May 21, 2018	Open House 5:00 p.m.–6:00 p.m.; Public Meeting 6:00 p.m.–9:00 p.m. (MDT).	Gallup, New Mexico. Address: Gallup Downtown Conference Center, 204 W Coal Ave., Gallup, NM 87301.
Open House and Public Scoping Meeting	May 22, 2018	Open House 5:00 p.m.–6:00 p.m.; Public Meeting 6:00 p.m.–9:00 p.m. (MT).	Albuquerque, New Mexico. Address: Crown Plaza, 1901 University Blvd., Albuquerque, NM 87102.

Persons interested in attending these meetings should check the NRC's Public Meeting Schedule web page at *https://www.nrc.gov/pmns/mtg* for additional information and agendas for the meetings.

III. Extending Public Comment Scoping Period

The NRC is extending the public comment scoping period for an additional 60 days, to July 30, 2018.

IV. Submitting Comments

Members of the public have requested the ability to submit their scoping comments to an NRC email address, in addition to the methods previously offered through the mail and through the Federal Rulemaking website. Accordingly, the NRC will now also accept comments submitted by email to *Holtec-CISFEIS@nrc.gov.*

Dated at Rockville, Maryland, this 11th day of May, 2018.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2018–10418 Filed 5–15–18; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. We are conducting this process in accordance with the Paperwork Reduction Act of 1995.

DATES: Submit comments on or before July 16, 2018.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov* Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke can be contacted by telephone at 202–692–1236 or email at *pcfr@peacecorps.gov.*

SUPPLEMENTARY INFORMATION:

Title: RPCV Event Bulletin Board.

OMB Control Number: 0420–****.

Type of Request: New.

Affected Public: Individuals.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Estimated burden (hours) of the collection of information:

a. *Number of respondents:* 50.

b. *Frequency of response:* 10 times.

c. *Completion time:* 5 minutes.

d. *Annual burden hours:* 42 hours.

General Description of Collection: The event information submitted via the form will be used to (1) populate events on the RPCV Events Bulletin Board web page; (2) assess the events for compliance with the Peace Corps statutory authority, regulations, and policy; (3) enable 3GL to better understand and support activities of RPCV groups related to the Third Goal and career; and (4) enable University Programs to better understand and support activities of the Paul. D. Coverdell Fellows partner universities related to RPCV career development.

Request for Comment: Peace Corps invites comments on whether the proposed collections of information are necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC on May 3, 2018.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2018–09879 Filed 5–15–18; 8:45 am]

BILLING CODE 6051–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Locating and Paying Participants

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request extension of OMB approval, with modifications.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, with modifications, to a collection of information under the Paperwork Reduction Act. The purpose of the information collection is to enable PBGC to pay benefits to participants and beneficiaries. This notice informs the public of PBGC's intent and solicits public comment on the collection of information, as modified.

DATES: Comments must be submitted by July 16, 2018.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for sending comments.
- *Email: paperwork.comments@pbgc.gov.*
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026.

All comments received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and the OMB Control Number for the information collection (OMB Control No. 1212–0055). All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information

provided. Copies of the collection of information may also be obtained without charge by writing to the Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, or calling 202–326–4040 during normal business hours. (TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic (*cibinc.stephanie@pbgc.gov*), Deputy Assistant General Counsel, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026, 202–326–4400, extension 6352. TTY users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400.

SUPPLEMENTARY INFORMATION: This information collection is needed to pay participants and beneficiaries who may be entitled to pension benefits from plans that have terminated. It consists of information participants and beneficiaries are asked to provide in connection with an application for benefits. In addition, in some instances, PBGC requests individuals to provide identifying information so that it may determine whether the individuals may be entitled to benefits. All requested information is needed so that PBGC may determine benefit entitlements and make appropriate payments.

This information collection includes My Pension Benefit Account (MyPBA), an application on PBGC's website, *http://www.pbgc.gov,* through which plan participants and beneficiaries may conduct electronic transactions with PBGC, including applying for pension benefits, designating a beneficiary, electing monthly payments, electing to withhold income tax from periodic payments, changing contact information, and applying for electronic direct deposit.

PBGC is proposing to revise one form in this collection, the Power of Attorney Form (Form 715). The proposed revision would include:

- Features previously unavailable—granting a durable power of attorney (DPOA) in addition to a nondurable power of attorney (NDPOA), and allowing a principal to name up to three agents to act on her behalf with PBGC (and to designate whether the agents have independent or joint authority), whereas the current form only has room for one agent to be named;
- Features that would protect the principal—heightened requirements for granting authority and for executing the document (*i.e.,* the principal's signature must be witnessed and notarized, and witnesses must meet certain criteria); and
- A ''Notice to the Principal,'' to alert the principal about what powers she is granting to a designated agent, and an ''Agent's Acknowledgement'' to inform the agent about her duties and liabilities with respect to handling the principal's affairs.

PBGC believes these revisions provide greater flexibility and greater protections against fraud for customers using the Form 715. Customers are not required to use this form and can use other DPOAs or NDPOAs that comply with applicable state laws.

The existing collection of information was approved under OMB control number 1212–0055 (expires March 31, 2019). PBGC intends to request that OMB extend its approval (with modifications) for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that it will receive 72,010 benefit application or information forms annually. The total annual burden associated with this collection of information is estimated to be 56,746 hours (approximately one hour for benefit applications and 30 minutes for information forms) and an estimated $56,711, which is the total average maximum cost of notary services for spousal consents on benefit applications and for the Form 715. PBGC estimates that from the above totals, 710 Form 715s will be filed annually at approximately 355 hours and $2,485.

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including 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.

Issued in Washington, DC, by

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2018–10374 Filed 5–15–18; 8:45 am]

BILLING CODE 7709–02–P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 16, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 11, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 65 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–151, CP2018–217.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–10467 Filed 5–15–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 16, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 11, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 36 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–153, CP2018–219.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–10469 Filed 5–15–18; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* May 16, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on May 11, 2018, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 80 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–152, CP2018–218.

Elizabeth Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2018–10468 Filed 5–15–18; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

Sunshine Act: Notice of Public Meeting

Notice is hereby given in accordance with Public Law 92–463 that the Actuarial Advisory Committee will hold a meeting on June 5, 2018, at 10:00 a.m. at the office of the Chief Actuary of the U. S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 27th Actuarial Valuation of the Railroad Retirement System. The agenda for this meeting will include a discussion of the results and presentation of the 27th Actuarial Valuation. The text and tables which constitute the Valuation will have been prepared in draft form for review by the Committee. It is expected that this will be the last meeting of the Committee before publication of the Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092.

For the Board.

Dated: May 14, 2018.

Martha Rico-Parra,

Secretary to the Board.

[FR Doc. 2018–10541 Filed 5–14–18; 4:15 pm]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83209; File No. SR–Phlx–2018–22]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Order Granting Approval of Proposed Rule Change To Create a New Rule 1081, To Amend Electronic Market Maker Obligations and Quoting Requirements for Electronic ROTs, Which Will Be Defined To Include SQTs, RSQTs, Directed SQTs, Directed RSQTs, Specialists, and Remote Specialists

May 10, 2018.

I. Introduction

On March 20, 2018, Nasdaq PHLX LLC (''Phlx'' or the ''Exchange'') 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 to amend the market maker obligations and quoting requirements for an SQT, RSQT, Directed SQT, Directed RSQT, and Specialist (including Remote Specialist) who enters electronic quotations into the Exchange's System.[3] The proposed rule change was published for comment in the **Federal Register** on April 5, 2018.[4] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend the market maker obligations and quoting requirements for an ''electronic ROT,'' which would be defined to include an SQT,[5] RSQT,[6] Directed SQT, Directed RSQT,[7] and Specialist (including Remote Specialist) [8] who enters electronic quotations into the Exchange's System,[9] and move these modified provisions to new Phlx Rule 1081.[10] The Exchange notes that non-SQT ROTs [11] would not be subject to the proposed quoting requirements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See infra* notes 5–9 for definitions of SQT, RSQT, Directed SQT, Directed RSQT, Specialist, Remote Specialist, and System.

[4] *See* Securities Exchange Act Release No. 82975 (March 30, 2018), 83 FR 14690 (April 5, 2018) (''Notice'').

[5] An ''ROT'' is a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. *See* Phlx Rule 1014(b)(i). A ''Streaming Quote Trader'' or ''SQT'' is an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An SQT may only submit such quotations while such SQT is physically present on the floor of the Exchange. An SQT may only trade in a market making capacity in classes of options in which the SQT is assigned. *See* Phlx Rule 1014(b)(ii)(A).

[6] A ''Remote Streaming Quote Trader'' or ''RSQT'' is an ROT that is a member affiliated with a ''Remote Streaming Quote Trader Organization'' or ''RSQTO'' with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. *See* Phlx Rule 1014(b)(ii)(B). *See also* Phlx Rule 507(a).

[7] A ''Directed SQT'' or ''Directed RSQT'' is an SQT or RSQT that receives a Directed Order. A ''Directed Order'' is any order (other than a stop or stop-limit order as defined in Phlx Rule 1066) to buy or sell which has been directed to a particular Specialist, RSQT, or SQT by an Order Flow Provider. An ''Order Flow Provider'' is any member or member organization that submits, as agent, orders to the Exchange. *See* Phlx Rule 1068(a)(i).

[8] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Phlx Rule 501 and Phlx Rule 1020(a). A ''Remote Specialist'' is an options specialist that does not have a physical presence on an Exchange floor. *See* Phlx Rule 1020(a)(i) and (ii).

[9] The ''System'' is the automated system for order execution and trade reporting owned and operated by the Exchange which comprises: (A) An order execution service that enables members to automatically execute transactions in ''System Securities'' (defined as all options that are currently trading on the System); and provides members with sufficient monitoring and updating capability to participate in an automated execution environment; (B) a trade reporting service that submits ''locked-in'' trades for clearing to a registered clearing agency for clearance and settlement; transmits last-sale reports of transactions automatically to the Options Price Reporting Authority for dissemination to the public and industry; and provides participants with monitoring and risk management capabilities to facilitate participation in a ''locked-in'' trading environment; and (C) the data feeds described in Phlx Rule 1070. *See* Phlx Rule 1000(b)(45) and (46).

[10] *See* proposed Phlx Rule 1081.

[11] A non-SQT ROT is an ROT who is neither an SQT nor an RSQT. *See* Phlx Rule 1014(b)(ii)(C).

described herein; instead, they are subject to quarterly trading requirements as specified in Phlx Rule 1014, Commentary .01.[12]

A. Market Maker Obligations

The Exchange proposes first to amend the generalized description of the market making obligations of an electronic ROT on the Exchange. Today, the Exchange provides that transactions of a Specialist and an ROT should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and that those members should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings.[13] In the Exchange's proposal, new Phlx Rule 1081 would specify that, in registering as an electronic ROT, a member organization would be committing to various obligations. Transactions of an electronic ROT in its market making capacity[14] would be required to constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those member organizations would not be permitted to make bids or offers or enter into transactions that are inconsistent with such course of dealings. Electronic ROTs would be prohibited from effecting purchases or sales except in a reasonable and orderly manner.[15]

In addition, ordinarily during trading hours, an electronic ROT would be required to: (i) Maintain a two-sided market in those options in which the electronic ROT is registered to trade, in a manner that enhances the depth, liquidity, and competitiveness of the market; (ii) engage, to a reasonable degree under the existing circumstances, in dealings for its own account when there exists, or it is reasonably anticipating that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of price relationships between option contracts of the same class; (iii) compete with other electronic ROTs in all options in all capacities in which the electronic ROT is registered to trade; (iv) make markets that will be honored for the number of contracts entered into the System in all options in which the electronic ROT is registered to trade; (v) update quotations in response to changed market conditions in all options in which the electronic ROT is registered to trade; (vi) maintain active markets in all options in which the electronic ROT is registered; and (vii) honor all orders attributed to the electronic ROT that the System routes to away markets pursuant to Phlx Rule 1080(m).[16]

The proposed rules provide further that, if Phlx Regulation found any substantial or continued failure to engage in a course of dealings as described above, the electronic ROT would be subject to disciplinary action or suspension or revocation of registration in one or more of the securities in which the electronic ROT is registered. The proposed rule stipulates that nothing in the rule would limit any other power of the Board under the rules, or procedures of the Exchange, with respect to the registration of an ROT or any violation by an ROT pursuant to the rule.[17] The Exchange states that the proposed obligations are similar to those imposed on market makers by another options exchange.[18]

B. Quoting Requirements

The Exchange further proposes to amend the quoting requirements for electronic ROTs. Electronic ROTs would be required to enter bids and offers for the options to which they are registered, except in an assigned options series listed intra-day on the Exchange. On a daily basis, an electronic ROT would be required to make markets consistent with the applicable quoting requirements, as described further below. A member organization would be required to meet each quoting requirement separately depending on the role that the member organization plays with respect to different options series.[19]

The proposed rules would state explicitly that an electronic ROT's bid and offer for a series of options contracts would need to be accompanied by the number of contracts at that price that the electronic ROT is willing to buy or sell. Similar to under current rules, the best bid or best offer submitted by an electronic ROT would be required to have a size of not less than the minimum number of contracts determined by the Exchange on a class-by-class basis, which minimum will be at least one contract.[20] The new rule would also state that an electronic ROT that enters a bid in a registered option series would be required to enter an offer and vice versa. The quotations would need to meet the legal quote width requirements in Phlx Rule 1014(c)(i)(A)(1) and (2).[21]

With respect to the specific quoting requirements, currently, the Exchange requires an SQT and an RSQT to quote two-sided markets in not less than 60% of the series in which such SQT or RSQT is assigned. To satisfy these requirements when quoting a series, an SQT or RSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. These obligations apply collectively to all appointed issues, rather than on an issue-by-issue basis.[22] Under the proposal, SQTs and RSQTs associated with the same member organization would be collectively required to provide two-sided quotations in 60% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that member organization's assigned option series are open for trading.[23]

In addition, currently, the Exchange requires a Specialist, including an RSQT functioning as a Remote Specialist, to quote two-sided markets in the lesser of 99% of the series or 100% of the series minus one call-put pair in each option in which such Specialist is assigned. To satisfy these requirements when quoting a series, a Specialist must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such

[12] *See* Notice, *supra* note 4, at 14690.

[13] *See* Phlx Rule 1014(a).

[14] According to the Exchange, orders, which electronic ROTs may enter pursuant to Phlx Rule 1080(b)(i)(B), are not considered market making activity for purposes of fulfilling the proposed quoting requirements or other obligations. *See* Notice, *supra* note 4, at 14690 n.5.

[15] *See* proposed Phlx Rule 1081(a).

[16] *See* proposed Phlx Rule 1081(a).

[17] *See* proposed Phlx Rule 1081(b). The Exchange explains that it added this rule text to make clear that the obligations noted within this proposed rule are not an exclusive list, because an electronic ROT may be found to have violated other by-laws and rules of the Exchange that are separate and apart from these obligations. *See* Notice, *supra* note 4, at 14691 n.9.

[18] *See* Notice, *supra* note 4, at 14690–91 & n.8. *See also* BX Rules at Chapter VII, Section 5.

[19] *See* proposed Phlx Rule 1081(c). Specifically, the proposed rule states that an SQT and RSQT who is also the Specialist would be held to the quoting requirements for Specialists in options series in which the Specialist is assigned and would be held to the quoting requirements for SQTs and RSQTs in all other options series where assigned. An SQT or RSQT who receives a Directed Order would be held to the quoting requirements for Directed SQTs and Directed RSQTs. *See id.*

[20] *See* proposed Phlx Rule 1081(c)(i). *See also* Phlx Rule 1014(b)(ii)(D)(3) (specifying the minimum contract size for SQTs, RSQTs, and Specialists), the current equivalent provision that is being replaced.

[21] *See* proposed Phlx Rule 1081(c)(ii).

[22] *See* Phlx Rule 1014(b)(ii)(D)(1).

[23] *See* proposed Phlx Rule 1081(c)(ii)(A). *See infra,* notes 35–36 and accompanying text, regarding the method by which the percentage would be calculated.

higher percentage as the Exchange may announce in advance. These obligations apply collectively to all appointed issues, rather than on an issue-by-issue basis.[24] Under the proposal, Specialists (including Remote Specialists) associated with the same member organization would be collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that member organization's assigned options series are open for trading.[25] The Exchange states that the Specialists' heightened quoting requirements as compared to SQTs and RSQTs allow for Specialists to receive certain participation rights.[26]

Further, currently, the Exchange requires a Directed SQT and a Directed RSQT to quote two-sided markets in the lesser of 99% of the series listed on the Exchange or 100% of the series listed on the Exchange minus one call-put pair,[27] in each case in at least 60% of the options in which such Directed SQT or Directed SQT is assigned.[28] To satisfy these requirements when quoting a series, a Directed SQT or Directed RSQT must quote such series 90% of the trading day (as a percentage of the total number of minutes in such trading day) or such higher percentage as the Exchange may announce in advance. These obligations apply collectively to all appointed issues, rather than on an issue-by-issue basis.[29] Under the proposal, Directed SQTs and Directed RSQTs associated with the same member organization would be collectively required to provide two-sided quotations in 90% of the cumulative number of seconds, or such higher percentage as the Exchange may announce in advance, for which that member organization's assigned options series are open for trading. A member organization would be considered directed in all assigned options once the member organization receives a Directed Order in any option in which they are assigned and would be considered a Directed SQT or Directed RSQT until such time as the member organization notifies the Exchange that they are no longer directed.[30] The Exchange notes that the Directed SQTs and Directed RSQTs' heightened quoting requirements as compared to SQTs and RSQTs allow for Directed SQTs and Directed RSQTs to receive certain participation rights.[31]

The Exchange states that the proposal better accommodates the occasional issues that may arise in a particular series, arguing that the existing quoting requirements may at times discourage liquidity in particular options series because an electronic ROT is forced to focus on a momentary lapse, rather than using the appropriate resources to focus on the options series that need and consume additional liquidity.[32]

For SQTs, RSQTs, Directed SQTs, and Directed RSQTs, the Exchange would continue to exclude from the above quoting requirements any Quarterly Option Series, Adjusted Option Series, and any option series until the time to expiration for such series is less than nine months.[33] Specialists would continue to be subject to the above quoting requirements for all assigned option series, including Quarterly Option Series, Adjusted Option Series, and any option series with an expiration of nine months or greater.[34]

The Exchange would calculate compliance with the above quoting requirements by (i) taking the total number of seconds the member organization disseminates quotes in each assigned option series;[35] and (ii) dividing that time by the eligible total number of seconds each assigned option series is open for trading that day. Quoting would not be required in every assigned options series and compliance with this requirement would be determined by reviewing the aggregate of quoting in assigned options series for the member organization.[36] Similar to current requirements, the Exchange would consider exceptions to the quoting requirements based on demonstrated legal or regulatory requirements or other mitigating circumstances. The Exchange would determine compliance with quoting requirements on a monthly basis. However, this monthly compliance evaluation would not relieve a member organization of the obligation to provide continuous two-sided quotes on a daily basis or prohibit the Exchange from taking disciplinary action against a member organization for failure to meet the quoting requirements each trading day.[37] If a technical failure or limitation of a System of the Exchange prevents a member organization from maintaining, or prevents a member organization from communicating to the Exchange timely and accurate quotes, the duration of such failure or limitation would not be included in any calculation of quoting requirements with respect to the affected quotes.[38]

The Exchange states that the proposed quoting requirements as described above are similar to those of another options exchange.[39]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[40] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[41] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and

[24] *See* Phlx Rule 1014(b)(ii)(D)(2).

[25] *See* proposed Phlx Rule 1081(c)(ii)(B). *See infra,* notes 35–36 and accompanying text, regarding the method by which the percentage would be calculated.

[26] *See* Notice, *supra* note 4, at 14693. *See also* Phlx Rules 1014(g)(ii) and 1014(g)(vii)(B)(1)(c).

[27] ''Call-put pair'' refers to one call and one put that cover the same underlying instrument and have the same expiration date and exercise price. *See* Phlx Rule 1014(b)(ii)(D)(6).

[28] *See* Phlx Rule 1014(b)(ii)(D)(1). Whenever a Directed SQT or Directed RSQT enters a quotation in an option in which such Directed SQT or Directed RSQT is assigned, such Directed SQT or Directed RSQT must maintain until the close of that trading day quotations for the lesser of 99% of the series of the option listed on the Exchange or 100% of the series of the option listed on the Exchange minus one call-put pair. *See id.*

[29] *See id.*

[30] *See* proposed Phlx Rule 1081(c)(ii)(C). *See infra,* notes 35–36 and accompanying text, regarding the method by which the percentage would be calculated.

[31] *See* Notice, *supra* note 4, at 14693. *See also* Phlx Rule 1014(g)(viii)(B).

[32] *See* Notice, *supra* note 4, at 14695.

[33] *See* proposed Phlx Rule 1081(c)(ii)(A) and (C). *See also* Phlx Rule 1014(b)(ii)(D)(4), the current equivalent provision that is being replaced. An ''Adjusted Option Series'' would be defined as an option series wherein one option contract in the series represents the delivery of other than 100 shares of underlying stock or Exchange-Traded Fund Shares. *See* proposed Phlx Rule 1081(c)(ii)(A)(i). *See also* Phlx Rule 1014(b)(ii)(D)(4).

[34] *See* proposed Phlx Rule 1081(c)(ii)(B).

[35] With respect to SQTs, RSQTs, Directed SQTs, and Directed RSQTs, such calculation would exclude Quarterly Option Series, Adjusted Option Series, and any option series with an expiration of nine months or greater. *See* proposed Phlx Rule 1081(c)(ii)(D).

[36] *See* proposed Phlx Rule 1081(c)(ii)(D). *See* Notice, *supra* note 4, at 14694, for an example of how the Exchange would calculate compliance with the quoting requirements.

[37] *See* proposed Phlx Rule 1081(c)(iii). *See also* Phlx Rule 1014(b)(ii)(D)(1) and (2), the current equivalent provision that is being replaced.

[38] *See* proposed Phlx Rule 1081(c)(iv). *See also* Phlx Rule 1014(b)(ii)(D)(5), the current equivalent provision that is being replaced.

[39] *See* Notice, *supra* note 4, at 14692–93. *See also* BX Rules at Chapter VII, Sections 6, 14, and 15.

[40] 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).

[41] 15 U.S.C. 78f(b)(5).

coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to add specificity regarding the general description in its rules regarding market maker obligations of an electronic ROT. The Commission finds that the changes it is making in this regard are consistent with the Act and notes that, as the Exchange maintains, the changes are consistent with the rules of another options exchange.[42]

The Exchange proposes to reduce the specific quoting requirements for electronic ROTs of the various types. SQTs and RSQTs associated with the same member organization would be collectively required to provide two-sided quotations in 60% of the cumulative number of seconds for which that member organization's assigned option series are open for trading. Specialists (including Remote Specialists) associated with the same member organization would be collectively required to provide two-sided quotations in 90% of the cumulative number of seconds for which that member organization's assigned option series are open for trading. Similarly, Directed SQTs and Directed RSQTs associated with the same member organization would be collectively required to provide two-sided quotations in 90% of the cumulative number of seconds for which that member organization's assigned option series are open for trading. The Exchange would be able to designate a higher percentage for any of these quoting requirements by announcing such percentage in advance.

These quoting requirements would apply to all of an electronic ROT's assigned options on a daily basis. These quoting requirements would be reviewed on a monthly basis, and would allow the Exchange to review the electronic ROT's daily compliance in the aggregate and determine the appropriate disciplinary action for single or multiple failures to comply with the continuous quoting requirement during the month period. The Commission notes that the proposed rules provide that determining compliance with the continuous quoting requirements on a monthly basis would not relieve the electronic ROT of the obligation to provide continuous two-sided quotes on a daily basis, nor would it prohibit the Exchange from taking disciplinary action against an electronic ROT for failing to meet the continuous quoting requirements each trading day.

The Commission finds that the proposed changes to the quoting requirements of electronic ROTs are consistent with the Act. The Exchange believes that the revised requirements will enable electronic ROTs to focus on the options series that need and consume more liquidity than others. To the extent this is true, the proposal will enhance trading opportunities on the Exchange. Moreover, the Commission believes that, although the proposal would reduce the quoting requirements for the various electronic ROTs from their current levels, the proposed changes are consistent, as the Exchange argues, with the market maker quoting requirements in place on other markets.[43] The Commission further notes that, notwithstanding the proposed changes to the quoting requirements for Specialists, Directed SQTs, and Directed RSQTs, the revised quoting requirements continue to reflect meaningful market making obligations. Additionally, the proposed rules reflect a balance of rights and obligations consistent with the balance reflected in the rules of other exchanges for market participants fulfilling a similar role.[44] In addition, the Commission believes that the proposed changes to provide additional detail about how the Exchange will apply these quoting requirements adds further clarity to the rules.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[45] that the proposed rule change (SR–Phlx–2018–22), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[46]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10379 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[42] *See* BX Rules, Chapter VII, Section 5.

[43] *See, e.g,* BX Rules, Chapter VII, Sections 6, 14, and 15; NYSE American Rules 925.1NY and 964.1NY; NYSE Arca Rules 6.37B–O and 6.88–O.

[44] *See, e.g.,* Nasdaq GEMX Rules 713 and 804; Nasdaq ISE Rules 713 and 804; Nasdaq MRX Rules 713 and 804. *See also supra* notes 26 and 31 and accompanying text.

[45] *Id.*

[46] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 33095; File No. 812–14819]

Franklin Alternative Strategies Funds, et al.

May 10, 2018.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order pursuant to: (a) Section 6(c) of the Investment Company Act of 1940 (''Act'') granting an exemption from sections 18(f) and 21(b) of the Act; (b) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (c) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Act; and (d) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements and transactions. Applicants request an order that would supersede a prior order and that would permit certain registered management investment companies to participate in a joint lending and borrowing facility.[1]

APPLICANTS: Franklin Alternative Strategies Funds, Franklin California Tax-Free Income Fund, Franklin California Tax-Free Trust, Franklin Custodian Funds, Franklin ETF Trust, Franklin Federal Tax-Free Income Fund, Franklin Floating Rate Master Trust, Franklin Fund Allocator Series, Franklin Global Trust, Franklin Gold and Precious Metals Fund, Franklin High Income Trust, Franklin Investors Securities Trust, Franklin Managed Trust, Franklin U.S. Government Money Fund, Franklin Municipal Securities Trust, Franklin Mutual Series Funds, Franklin New York Tax-Free Income Fund, Franklin New York Tax-Free Trust, Franklin Real Estate Securities Trust, Franklin Strategic Mortgage Portfolio, Franklin Strategic Series, Franklin Tax-Free Trust, Franklin Templeton ETF Trust, Franklin Templeton Global Trust, Franklin Templeton International Trust, Franklin Templeton Money Fund Trust, Franklin Templeton Variable Insurance Products Trust, Franklin Value Investors Trust, Institutional Fiduciary Trust, Templeton China World Fund, Templeton Developing Markets Trust, Templeton Funds, Templeton Global Investment Trust, Templeton Global Opportunities Trust, Templeton Global Smaller Companies Fund, Templeton Growth

[1] Franklin Gold Fund, et al., Investment Company Act Release Nos. 24016 (Sept. 16, 1999) and 24080 (Oct. 13, 1999).

Fund, Inc., Templeton Income Trust, Templeton Institutional Funds, and The Money Market Portfolios, each an investment company organized as a Delaware statutory trust or a Maryland corporation and registered under the Act as an open-end management investment company, on behalf of all existing series [2] (the ''Open-End Funds''); Franklin Limited Duration Income Trust, Franklin Universal Trust, Templeton Dragon Fund, Inc., Templeton Emerging Markets Fund, Templeton Emerging Markets Income Fund, and Templeton Global Income Fund, each organized as a Delaware statutory trust or a Massachusetts business trust and registered under the Act as a closed-end investment management investment company (the ''Closed-End Funds,'' [3] and together with the Open-End Funds, the ''Funds''); Franklin Advisers, Inc., a California corporation; Franklin Templeton Investment Management Limited, a United Kingdom company; K2/D&S Management Co., L.L.C., FASA LLC, Franklin Templeton Institutional, LLC, Franklin Advisory Services, LLC, Franklin Mutual Advisers, LLC, and Templeton Investment Counsel, LLC, each a Delaware limited liability company; Templeton Asset Management Ltd., a Singapore public company, and Templeton Global Advisors Limited, a Bahamas company; each registered as an investment adviser under the Investment Advisers Act of 1940 (each an ''Adviser'').

FILING DATES: The application was filed on September 14, 2017, and amended on March 9, 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 the 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, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090; Applicants: Craig S. Tyle, Esq., Franklin Templeton Investments, One Franklin Parkway, San Mateo, CA 94403 and Bruce G. Leto, Esq., Stradley Ronon Stevens & Young, LLP, 2600 One Commerce Square, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811, or Kaitlin C. Bottock, 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.

Summary of the Application

1. Applicants request an order that would permit the applicants to participate in an interfund lending facility where each Fund could lend money directly to and borrow money directly from other Funds to cover unanticipated cash shortfalls, such as unanticipated redemptions or trade fails.[4] The Funds will not borrow under the facility for leverage purposes and the loans' duration will be no more than 7 days.[5]

2. Applicants anticipate that the proposed facility would provide a borrowing Fund with a source of liquidity at a rate lower than the bank borrowing rate at times when the cash position of the Fund is insufficient to meet temporary cash requirements. In addition, Funds making short-term cash loans directly to other Funds would earn interest at a rate higher than they otherwise could obtain from investing their cash in repurchase agreements or certain other short term money market instruments. Thus, applicants assert that the facility would benefit both borrowing and lending Funds.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Among others, each Adviser, through a designated committee, would administer the facility as a disinterested fiduciary as part of its duties under the investment advisory and administrative agreements with the Funds and would receive no additional fee as compensation for its services in connection with the administration of the facility. The facility would be subject to oversight and certain approvals by the Funds' Board, including, among others, approval of the interest rate formula and of the method for allocating loans across Funds, as well as review of the process in place to evaluate the liquidity implications for the Funds. A Fund's aggregate outstanding interfund loans will not exceed 15% of its net assets, and the Fund's loans to any one Fund will not exceed 5% of the lending Fund's net assets.[6]

4. Applicants assert that the facility does not raise the concerns underlying section 12(d)(1) of the Act given that the Funds are part of the same group of investment companies and there will be no duplicative costs or fees to the Funds.[7] Applicants also assert that the proposed transactions do not raise the concerns underlying sections 17(a)(1), 17(a)(3), 17(d) and 21(b) of the Act as the Funds would not engage in lending transactions that unfairly benefit insiders or are detrimental to the Funds. Applicants state that the facility will offer both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and each Fund would have an equal opportunity to borrow and lend on equal terms based on an interest rate formula that is objective and verifiable. With respect to the relief from section 17(a)(2) of the Act, applicants note that any collateral pledged to secure an interfund loan would be subject to the same conditions imposed by any other lender to a Fund that imposes conditions on the quality of or access to collateral for a borrowing (if the lender is another Fund) or the

[2] Certain Funds (as defined below) are, and future Funds may be, money market funds that comply with rule 2a–7 of the Act (each a ''Money Market Fund''). Money Market Funds will not participate as borrowers under the interfund lending facility because they do not need to borrow cash to meet redemptions.

[3] The requested order will not permit Closed-End Funds to participate as borrowers in the interfund lending facility.

[4] Applicants request that the order apply to the applicants and to any other registered open-end or closed-end management investment company or series thereof (each a ''Fund'' and collectively, the ''Funds'') for which the Advisers or any successors-in-interest thereto or an investment adviser controlling, controlled by, or under common control with any Adviser or any successor-in-interest thereto serves as investment adviser (each such investment adviser, an ''Adviser''). For purposes of the requested order, ''successor-in-interest'' is limited to any entity that results from a reorganization into another jurisdiction or a change in the type of a business organization.

[5] Any Fund, however, will be able to call a loan on one business day's notice.

[6] Under certain circumstances, a borrowing Fund will be required to pledge collateral to secure the loan.

[7] Applicants state that the obligation to repay an interfund loan could be deemed to constitute a security for the purposes of sections 17(a)(1) and 12(d)(1) of the Act.

same or better conditions (in any other circumstance).[8]

5. Applicants also believe that the limited relief from section 18(f)(1) of the Act that is necessary to implement the facility (because the lending Funds are not banks) is appropriate in light of the conditions and safeguards described in the application and because the open-end Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the open-end Fund, including combined interfund loans and bank borrowings, have at least 300% asset coverage.

6. 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. Rule 17d–1(b) under the Act provides that in passing upon an application filed under the rule, the Commission will consider whether the participation of the registered investment company in a joint enterprise, joint arrangement or profit sharing plan on the basis proposed 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 the other participants.

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10383 Filed 5–15–18; 8:45 am]

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[8] Applicants state that any pledge of securities to secure an interfund loan could constitute a purchase of securities for purposes of section 17(a)(2) of the Act.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83206; File No. SR–CboeBZX–2018–033]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Under BZX Rule 14.11(c)(4) Shares of the iShares Long-Term National Muni Bond ETF of iShares Trust

May 10, 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 May 3, 2018, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') 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 Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it 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 list and trade under BZX Rule 14.11(c)(4) the shares of the iShares Long-Term National Muni Bond ETF (the ''Fund'') of iShares Trust (the ''Trust'').

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Fund under BZX Rule 14.11(c)(4),[5] which governs the listing and trading of index fund shares based on fixed income securities indexes.[6] The Shares will be offered by the Trust, which was established as a Delaware statutory trust on December 16, 1999. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[7]

Rule 14.11(c)(4)(B)(i)(b) requires that component fixed income securities that, in the aggregate, account for at least 75% of the weight of the index or portfolio shall have a minimum principal amount outstanding of $100 million or more. The Exchange submits this proposal because the Underlying

[5] The Commission approved BZX Rule 14.11(c) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[6] The Commission previously has approved proposed rule changes relating to listing and trading of funds based on municipal bond indexes. *See* Securities Exchange Act Release Nos. 78329 (July 14, 2016), 81 FR 47217 (July 20, 2016) (SR–BatsBZX–2016–01) (order approving the listing and trading of the following series of VanEck Vectors ETF Trust: VanEck Vectors AMT-Free 6–8 Year Municipal Index ETF; VanEck Vectors AMT-Free 8–12 Year Municipal Index ETF; and VanEck Vectors AMT-Free 12–17 Year Municipal Index ETF); 67985 (October 4, 2012), 77 FR 61804 (October 11, 2012) (SR–NYSEArca–2012–92) (order approving proposed rule change relating to the listing and trading of iShares 2018 S&P AMT-Free Municipal Series and iShares 2019 S&P AMT-Free Municipal Series under NYSE Arca, Inc. (''NYSE Arca'') Rule 5.2(j)(3), Commentary .02); 72523 (July 2, 2014), 79 FR 39016 (July 9, 2014) (SR–NYSEArca–2014–37) (order approving proposed rule change relating to the listing and trading of iShares 2020 S&P AMT-Free Municipal Series under NYSE Arca Rule 5.2(j)(3), Commentary .02); and 75468 (July 16, 2015), 80 FR 43500 (July 22, 2015) (SR–NYSEArca–2015–25) (order approving proposed rule change relating to the listing and trading of the iShares iBonds Dec 2021 AMT-Free Muni Bond ETF and iShares iBonds Dec 2022 AMT-Free Muni Bond ETF under NYSE Arca Rule 5.2(j)(3), Commentary .02).

[7] *See* Registration Statement on Form N–1A for the Trust, dated January 9, 2018 (File Nos. 333–92935 and 811–09729). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 28021 (October 24, 2007) (File No. 812–13426).

Index does not meet this requirement. The Underlying Index does, however, meet all of the other requirements of Rule 14.11(c)(4).

Description of the Shares and the Fund

BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Fund.[8] State Street Bank and Trust Company is the administrator, custodian, and transfer agent (''Administrator,'' ''Custodian,'' and ''Transfer Agent,'' respectively) for the Trust. S&P is the index provider (the ''Index Provider'') for the Fund. BlackRock Investments, LLC serves as the distributor (''Distributor'') for the Trust.

S&P 15+ Year National AMT-Free Municipal Bond Index

According to the Registration Statement, the Fund will seek to track the investment results of the S&P 15+ Year National AMT-Free Municipal Bond Index (the ''Underlying Index''), which measures the performance of the investment-grade segment of the U.S. municipal bond market with remaining maturities greater than or equal to fifteen years. The Underlying Index primarily includes municipal bonds from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the federal alternative minimum tax (''AMT''). As of February 13, 2018, the Underlying Index included 3,637 component fixed income municipal bond securities from issuers in 45 different states or U.S. territories.[9] The most heavily weighted security in the Underlying Index represented approximately 0.32% of the total weight of the Underlying Index and the aggregate weight of the top five most heavily weighted securities in the Underlying Index represented less than 1.36% of the total weight of the Underlying Index. Approximately 40.01% of the weight of the components in the Underlying Index had a minimum original principal outstanding of $100 million or more. In addition, the total dollar amount outstanding of issues in the Underlying Index was approximately $239,414,133,037 and the average dollar amount outstanding of issues in the Underlying Index was approximately $65,827,367.

Under normal market conditions,[10] the Fund will invest at least 90% of its assets in the component securities of the Underlying Index. With respect to the remaining 10% of its assets, the Fund may invest in certain futures, options and swap contracts, cash and cash equivalents, including shares of money market funds advised by BFA or its affiliates, as well as in securities not included in the Underlying Index, but which BFA believes will help the Fund track the Underlying Index.

Requirement for Index Constituents

Each bond in the Underlying Index must be denominated in U.S. dollars, must be a constituent of an offering where the original offering amount was at least $100 million, and must have a minimum par amount of $25 million. To remain in the Underlying Index, bonds must maintain a minimum par amount greater than or equal to $25 million as of the next rebalancing date. The Underlying Index primarily includes municipal bonds from issuers that are state or local governments or agencies such that the interest on each such bond is exempt from U.S. federal income taxes and the federal alternative minimum tax (''AMT''). Each bond in the Underlying Index must have a rating of at least BBB− by S&P Global Ratings, Baa3 by Moody's Investors Service, Inc., or BBB− by Fitch Ratings, Inc. A bond must be rated by at least one of these three rating agencies in order to qualify for the Underlying Index, and the lowest rating will be used in determining if the bond is investment-grade.

Discussion

Based on the characteristics of the Underlying Index and the representations made in the Requirements for Index Constituents section above, the Exchange believes it is appropriate to allow the listing and trading of the Shares. The Underlying Index and Fund satisfy all of the generic listing requirements for Index Fund Shares based on a fixed income index, except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). A fundamental purpose behind the minimum principal amount outstanding requirement is to ensure that component securities of an index are sufficiently liquid such that the potential for index manipulation is reduced. With this in mind, the Exchange notes that the representations in the Requirements for Index Constituents for the Underlying Index are identical to the representations made regarding the S&P National AMT-Free Municipal Bond Index (the ''Comparable Index''), which underlies a series of Index Fund Shares that were previously approved for listing and trading by the Commission.[11] In the Approval Order, the Commission highlighted the representations that the Comparable Index would, on a continuous basis, contain at least 500 component securities and that at least 90% of the weight of the Comparable Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million. The Exchange believes that because these representations regarding diversification and the lack of concentration among constituent securities provides a strong degree of protection against index manipulation that is consistent with other proposals that have been approved for listing and trading by the Commission.

In addition, the Exchange represents that: (1) Except for Rule 14.11(c)(4)(B)(i)(b), the Underyling [sic] index currently satisfies all of the generic listing standards under Rule 14.11(c)(4); (2) the continued listing standards under Rule 14.11(c), as applicable to Index Fund Shares based on fixed income securities, will apply to the shares of the Fund; and (3) the issuer of the Fund is required to comply with Rule 10A–3 [12] under the Act for the initial and continued listing of the Shares. In addition, the Exchange represents that the Fund will comply with all other requirements applicable to Index Fund Shares, including, but not limited to, requirements relating to the dissemination of key information such as the value of the Underyling [sic] Index and the Intraday Indicative Value (''IIV''),[13] rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers and the Information Circular, as set

[8] BFA is an indirect wholly owned subsidiary of BlackRock, Inc.

[9] Unless otherwise noted, all statistics related to the Underlying Index presented hereafter were accurate as of February 13, 2018.

[10] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[11] The Comparable Index underlies the iShares National Muni Bond ETF. *See* Securities Exchange Act Release No. 82295 (December 12, 2017), 82 FR 60056 (December 18, 2017) (SR–NYSEArca–2017–56) (the ''Approval Order'').

[12] 17 CFR 240.10A–3.

[13] The IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours. Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from the Consolidated Tape Association (''CTA'') or other data feeds.

forth in the Exchange rules applicable to Index Fund Shares and prior Commission orders approving the generic listing rules applicable to the listing and trading of Index Fund Shares.

The current value of the Underlying Index will be widely disseminated by one or more major market data vendors at least once per day, as required by Rule 14.11(c)(4)(C)(ii). The portfolio of securities held by the Fund will be disclosed daily on the Fund's website. Further, the Fund's website will contain the Fund's prospectus and additional data relating to net asset value (''NAV'') and other applicable quantitative information. The issuer has represented that the NAV will be calculated daily and will be made available to all market participants at the same time. The Index Provider is not a broker-dealer and is not affiliated with a broker-dealer. To the extent that the Index Provider becomes a broker-dealer or becomes affiliated with a broker-dealer, the Index Provider will implement and will maintain a ''fire wall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Index and the Underlying Index shall be calculated by a third party who is not a broker-dealer or fund advisor. In addition, any advisory committee, supervisory board or similar entity that advises the Index Provider or that makes decisions on the Index, methodology and related matters, will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the Underlying Index.

The Exchange's existing rules require that the issuer of the Fund notify the Exchange of any material change to the methodology used to determine the composition of the Underlying Index and, therefore, if the methodology of the Underlying Index was changed in a manner that would materially alter its existing composition, the Exchange would have advance notice and would evaluate the modifications to determine whether the Underyling [sic] Index remained sufficiently broad-based and well diversified.

Price information regarding municipal bonds, convertible securities, and non-exchange traded assets, including investment companies, derivatives, money market instruments, repurchase agreements, structured notes, participation notes, and when-issued securities is available from third party pricing services and major market data vendors. For exchange-traded assets, including investment companies, futures, warrants, and options, such intraday information is available directly from the applicable listing exchange.

Surveillance

The Exchange represents that trading in the shares of the Fund will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, or by regulatory staff of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the shares of the Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.[14]

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and ETFs with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and ETFs from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and ETFs from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by a Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE''). FINRA also can access data obtained from the Municipal Securities Rulemaking Board (''MSRB'') relating to municipal bond trading activity for surveillance purposes in connection with trading in the Shares.

[14] FINRA conducts cross-market surveillances on behalf of the exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [15] in general and Section 6(b)(5) of the Act [16] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the shares of the Fund will be listed and traded on the Exchange pursuant to the initial and continued listing criteria for Index Fund Shares based on a fixed income index in Rule 14.11(c)(4), except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). The Exchange represents that trading in the shares of the Fund will be subject to the existing trading surveillances administered by the Exchange as well as cross-market surveillances administered by the FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the shares of the Fund in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the shares of the Fund with other markets that are members of the ISG. In addition, the Exchange will communicate as needed regarding trading in the shares of the Fund with other markets that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. FINRA also can access data obtained from the Municipal Securities Rulemaking Board relating to municipal bond trading activity for surveillance purposes in connection with trading in the shares of the Fund. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(5).

FINRA's Trade Reporting and Compliance Engine (''TRACE'').

As discussed above, the Exchange believes that the Underlying Index is sufficiently broad-based to deter potential manipulation. The Underlying Index currently includes 3,637 component securities. Whereas the Rule 14.11(c)(4)(B)(i)(e) requires that an index contain securities from a minimum of 13 non-affiliated issuers, the Underlying Index includes securities issued by municipal entities in more than 45 states or U.S. territories. Further, whereas the generic listing rules permit a single component security to represent up to 30% of the weight of an index and the top five component securities to, in aggregate, represent up to 65% of the weight of an index, the largest component security in the Underyling [sic] Index only constitutes 0.32% of the weight of the Underlying Index and the largest five component securities represent 1.36% of the weight of the Underlying Index.

The Exchange believes that this significant diversification and the lack of concentration among constituent securities provides [sic] a strong degree of protection against index manipulation. The Underlying Index and Fund satisfy all of the generic listing requirements for Index Fund Shares based on a fixed income index, except for the minimum principal amount outstanding requirement of 14.11(c)(4)(B)(i)(b). A fundamental purpose behind the minimum principal amount outstanding requirement is to ensure that component securities of an index are sufficiently liquid such that the potential for index manipulation is reduced. With this in mind, the Exchange notes that the representations in the Requirements for Index Constituents for the Underlying Index are identical to the representations made regarding the Comparable Index, which underlies a series of Index Fund Shares that were previously approved for listing and trading by the Commission.[17] In the Approval Order, the Commission highlighted the representations that the Comparable Index would, on a continuous basis, contain at least 500 component securities and that at least 90% of the weight of the Comparable Index will be comprised of securities that have a minimum par amount of $25 million and were a constituent of an offering where the original offering amount was at least $100 million. The Exchange believes that because [sic] these representations regarding diversification and the lack of concentration among constituent securities provides [sic] a strong degree of protection against index manipulation that is consistent with other proposals that have been approved for listing and trading by the Commission.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information is publicly available regarding the Funds, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on the Fund's website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV for shares of the Fund will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours. The current value of the Index will be disseminated by one or more major market data vendors at least once per day. Information regarding market price and trading volume of the shares of the Fund will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. The website for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

If the Exchange becomes aware that the Fund's NAV is not being disseminated to all market participants at the same time, it will halt trading in the shares of the Fund until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the shares of the Fund. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the shares the Fund inadvisable. If the IIV and index value are not being disseminated for the Fund as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the IIV or index value occurs. If the interruption to the dissemination of an IIV or index value persists past the trading day in which it occurred, the Exchange will halt trading. The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of the Funds; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of a Fund may be halted. In addition, investors will have ready access to information regarding the applicable IIV, and quotation and last sale information for the shares of the Fund. Trade price and other information relating to municipal bonds is available through the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (''EMMA'') system.

All statements and representations made in this filing regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, and intraday indicative values (as applicable), or the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer is required to advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Rule 14.12.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of exchange-traded products that principally hold municipal bonds and that will enhance competition among market participants, to the benefit of investors and the marketplace. The Exchange has in place surveillance procedures relating to trading in the shares of the Fund and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition,

[17] The Comparable Index underlies the iShares National Muni Bond ETF. *See* Securities Exchange Act Release No. 82295 (December 12, 2017), 82 FR 60056 (December 18, 2017) (SR–NYSEArca–2017–56) (the ''Approval Order'').

investors will have ready access to information regarding the IIV and quotation and last sale information for the shares of the Fund.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and Rule 19b–4(f)(6) thereunder.[19]

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.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

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 CboeBZX–2018–033 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 CboeBZX–2018–033. 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 will also 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 CboeBZX–2018–033 and should be submitted on or before June 6,2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10377 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83207; File No. SR–MSRB–2018–03]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Revise the Language of Certain Administrative Rules To Continue To Help Ensure That They Reflect MSRB Practices and Improve Consistency Among the Rules

May 10, 2018.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 2018 the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') 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 MSRB. 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 MSRB filed with the Commission proposed amendments to MSRB Rule A–3, on membership on the Board, MSRB Rule A–4, on meetings of the Board, MSRB Rule A–5, on officers and employees of the Board, and MSRB Rule A–17, on confidentiality of examination reports, to revise the language of the rules to continue to help ensure that they reflect MSRB practices and improve consistency among the rules (collectively, the ''proposed rule change''). The MSRB has designated the proposed rule change as being immediately effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(3) [4] thereunder. The proposed rule change is concerned solely with the administration of the MSRB in that it amends certain rules that relate exclusively to the internal operation of the Board.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2018-Filings.aspx,* at the MSRB's principal

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(3).

office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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 MSRB has adopted administrative rules (''A-Rules'') that pertain to the operation and administration of the Board, which are identified by the prefix A.[5] The MSRB routinely reviews its A-Rules for accuracy and adherence to governance best practices. As a result of a recent review of certain A-Rules, the MSRB is proposing to amend Rules A–3, A–4, A–5 and A17.

Rule A–3(b)(i)

As part of its review of the A-Rules, the MSRB sought to improve internal consistency among its rules. The MSRB has adopted certain definitional rules which define terms used in the rules of the Board.[6] Rule D–4 defines the term ''Board'' as the Municipal Securities Rulemaking Board, but in one instance Rule A–3(b)(i) refers to the ''Board of Directors.'' The proposed rule change would replace this reference to ''Board of Directors'' with the defined term ''Board'' for consistency.

Rule A–3(b)(iii) and (iv)

Rule A–3(b)(iii) sets forth information regarding the Board application process, including the public notices which the Nominating and Governance Committee (''Committee'') publishes and the information that applicants must provide to the Committee. In describing the information that the Committee's public notice will require, Rule A–3(b)(iii) references ''applicant recommendations.'' In practice, the Committee solicits applications through an application form completed by applicants.

While applicants can recommend themselves and this phrasing is therefore not inaccurate, the proposed rule change would amend Rule A–3(b)(iii) and (iv) to better reflect the manner in which the Board conducts the application process by replacing references to ''recommendations'' with ''applications'' and making other conforming changes.

Rule A–3(d)

During the review, the MSRB noted an obsolete cross-reference in Rule A–3(d), which stems from previous amendments to Rule A–3. Specifically, on January 25, 2011, the Commission approved amendments to former Rule A–3(c) (now Rule A–3(b))[7] to reflect changes made by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act''),[8] which amended Section 15B of the Exchange Act.[9] Subsection (vi) of the former Rule A–3(c) (now Rule A–3(b)) was deleted, which included a requirement that the public representatives on the Board, prior to assuming office, be subject to approval by the Commission to assure that they were not disqualified as public members by reason of association with a broker, dealer or municipal securities dealer. The deletion was made as the MSRB took the process of assuring public status upon itself.

At the time of this change, a cross-reference in another part of Rule A–3 to the Commission's approval function was inadvertently not deleted. This cross-reference is currently contained in Rule A–3(d), on vacancies, and it provides that vacancies on the Board with respect to public representatives are filled by Board vote, ''subject to the Commission's power of approval referred to in section (c) of [Rule A–3] . . . .'' As noted, however, after the 2011 amendments, there is no longer any Commission approval function for public representatives, as was previously described in Rule A–3(c). The cross-reference, therefore, has been without any effect. The proposed rule change would delete the obsolete cross-reference in Rule A–3(d).

Rule A–3(c) and (f)

The Dodd-Frank Act grants the MSRB broad rulemaking authority over municipal advisors and municipal advisory activities[10] and requires that the Board include at least one individual who is associated with and representative of municipal advisors (''municipal advisor representative'').[11] As indicated above, the MSRB amended its A-Rules to reflect certain changes made by the Dodd-Frank Act. However, the more recent review of the A-Rules identified two provisions which refer generally to other Board member categories but have not been amended to address municipal advisor representatives.

On July 29, 2009, an amendment to Rule A–3 became effective to add section (g) (now Rule A–3(f)), on affiliations, which prohibits two persons associated with the same dealer from serving as members of the Board at the same time.[12] The same concerns that arise from two representatives of the same dealer serving on the Board at the same time could also arise with municipal advisor representatives and, accordingly, the rationale underlying Rule A–3(f) should apply evenly to all categories of regulated representatives. Thus, the proposed rule change would amend Rule A–3(f) also to address municipal advisors, such that two persons associated with the same municipal advisor would be prohibited from serving on the Board at the same time.

Similarly, Rule A–3(c), which provides that an affirmative vote of two-thirds of the whole Board is needed to remove a member from office, requires that the vote to remove include the affirmative vote of at least one public representative, one broker-dealer representative and one bank representative. The rationale of this provision is to require the affirmative vote of at least one member of each Board category in the decision to remove a member. According to the same rationale, this provision should be extended also to require the affirmative vote of at least one municipal advisor representative to remove a Board member from office; thus, the proposed rule change would so amend Rule A–3(c).

Rule A–4(d), Rule A–5(c) and Rule A–17

Lastly, the proposed rule change would amend certain provisions in Rules A–4, A–5 and A–17 to refer to the MSRB's most senior executive as ''Chief Executive Officer'' instead of the current title of ''Executive Director'' due to an

[5] *See* MSRB Rule A–1.

[6] *Id.*

[7] Release No. 34–63764 (January 25, 2011), 76 FR 5417 (January 31, 2011) (SR–MSRB–2010–17).

[8] Public Law 111–203, 124 Stat. 1376 (2010).

[9] 15 U.S.C. 78*o*–4.

[10] *See* Section 15B(b)(2) of the Exchange Act (15 U.S.C. 78*o*–4(b)(2)).

[11] *Id.* In addition, not less than 30 percent of the total number of regulated representatives must be municipal advisor representatives. MSRB Rule A–3 (Membership on the Board).

[12] Release No. 34–60408 (July 30, 2009), 74 FR 39372 (August 6, 2009) (SR–MSRB–2009–11).

intended alignment with other existing MSRB officer titles.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with the requirements of Section 15B(b)(2)(B) and (I) of the Act.[13] Section 15B(b)(2)(B) provides that the MSRB's rules shall ''establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of public representatives, broker dealer representatives, bank representatives, and advisor representatives.'' While the proposed rule change would not alter the MSRB's Board nomination or election process, it would help to continue to ensure that the MSRB's rules reflect that process.

Section 15B(2)(I) provides that the MSRB's rules shall provide for the operation and administration of the MSRB. The proposed rule change amends provisions of the A-Rules that relate to the operation and administration of the MSRB. The MSRB also believes that the proposed rule change will further enhance the Board's governance procedures by improving descriptions of the MSRB's practices and improving internal consistency.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Act[14] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the proposed rule change simply amends language in the A-Rules to continue to help ensure they reflect the MSRB's practices and improve consistency among MSRB rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[15] and paragraph (f) of Rule 19b–4 thereunder.[16] 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–MSRB–2018–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2018–03. 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 MSRB. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2018–03 and should be submitted on or before June 6, 2018.

For the Commission, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10378 Filed 5–15–18; 8:45 am]

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[13] 15 U.S.C. 78*o*–4(b)(2)(B) and 15 U.S.C. 78*o*–4(b)(2)(I).

[14] 15 U.S.C. 78*o*–4(b)(2)(C).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83210; File No. SR–CboeBZX–2018–030]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe BZX Exchange, Inc.

May 10, 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 amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

[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] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BZX Equities'') to: (i) Eliminate fee code HA and replace it with new fee codes HV, HB and HY, (ii) add a Non-Displayed Add Volume Tier; and (iii) modify the rate associated with fee code D, effective May 1, 2018.

Fee Codes HA, HV, HB, HY

Currently, fee code HA is appended to all non-displayed orders that add liquidity and receive a rebate of $0.00150 per share. The Exchange proposes to eliminate fee code HA and replace it with fee codes HV, HB and HY. Particularly, the Exchange proposes to separate out fee code HA into three separate fee codes, each representing a different Tape for non-displayed orders that add liquidity. The Exchange proposes to adopt fee code HV for Tape A non-displayed orders that add liquidity; fee code HB for Tape B non-displayed orders that add liquidity; and fee code HY for Tape C non-displayed orders that add liquidity. The Exchange notes it currently maintains separate fee codes based on Tapes for other types of orders as well.[6] In connection with this change, the Exchange proposes to eliminate references to fee code HA throughout the Fee Schedule and replace it with references to HV, HB, HY.

New Volume Tier

The Exchange currently provides a standard rebate of $0.00150 per share for non-displayed orders that add liquidity. The Exchange proposes to adopt a new Non-Displayed Add Volume Tape A Volume Tier, Tier 1 under Footnote 1 (''HV Volume Tier'') which would be available for qualifying orders which yield fee code HV. Particularly, under the proposed HV Volume Tier, a Member may receive an enhanced rebate of $0.00260 per share where they add an ADV[7] greater than or equal to 0.20% of the TCV[8] as Non-Displayed orders that yield fee codes HI or HV.[9] The Exchange believes the proposed change will encourage Members to increase their liquidity on the exchange. The Exchange also notes that other Exchanges maintain other volume tiers specific to a particular Tape.[10]

Fee Code D

The Exchange lastly proposes to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') using Destination Specific, RDOT, RDOX, TRIM or SLIM routing strategy. Particularly, NYSE recently implemented certain pricing changes related to Tapes B and C securities, including adopting a per tape fee of $0.00280 per share to remove liquidity from the Exchange for member organizations with an Adding ADV of at least 50,000 shares for that respective Tape.[11] Based on the changes in pricing at NYSE, the Exchange is proposing to increase its fee for orders executed at NYSE that yield fee code D from $0.00265 to $0.00280.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[12] in general, and furthers the objectives of Section 6(b)(4),[13] 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 also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

The Exchange believes the proposal to eliminate fee code HA and replace it with fees codes HV, HB and HY is reasonable, equitable and not unfairly discriminatory because the standard rebate for current fee code HA and proposed fee codes HV, HB and HY, is not changing and because it applies uniformly to all Members. Additionally, as noted above, the Exchange already maintains separate fee codes based on Tapes for other types of orders.[14]

The Exchange believes the adoption of the HV Volume Tier under footnote 1 is reasonable because it provides Members an opportunity to receive an enhanced rebate for Non-Displayed orders that add liquidity and is a reasonable means to encourage Members to increase their liquidity on the Exchange. The Exchange further believes that the proposed tier represents an equitable allocation of reasonable dues, fees, and other charges because the thresholds necessary to achieve the tier encourages Members to add additional liquidity to the Exchange. The Exchange also notes that the Exchange already utilities similar volume tiers with similar criteria[15] and also notes that other exchanges maintain Tape-specific volume tiers.[16] The Exchange further believes the proposed fee change is equitable and non-discriminatory because it applies uniformly to all Members.

The Exchange believes the proposed fee is reasonable because it reflects a pass-through of the pricing increase by NYSE noted above. The Exchange further believes the proposed fee change is non-discriminatory because it applies uniformly to all Members.

[6] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Fee Codes W and BB, and N which fee codes represent orders removing liquidity from BZX for Tapes A, B and C respectively.

[7] ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis. *Id.*

[8] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply. *Id.*

[9] Fee code HI is appended to non-displayed orders that receive price improvement and add liquidity. *Id.*

[10] *See e.g.,* Cboe EDGX U.S. Equities Exchange Fee Schedule, Tape B Volume Tiers.

[11] *See* NYSE Trader Update, NYSE—Fees for Trading Tapes B and C securities, dated April 2, 2018, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Fee_Change_BandC_April2018.pdf.*

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

[14] *See e.g.,* Cboe BZX U.S. Equities Exchange Fee Schedule, Fee Codes W and BB, and N which fee codes represent orders removing liquidity from BZX for Tapes A, B and C respectively.

[15] *See* Cboe BZX U.S. Equities Exchange Fee Schedule, Add Volume Tiers applicable to current fee code HA.

[16] *See e.g.,* Cboe EDGX U.S. Equities Exchange Fee Schedule, Tape B Volume Tiers.

(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 does not believe that any of the proposed change to the Exchange's tiered pricing structure burden competition, but instead, that they enhance competition as they are intended to increase the competitiveness of BZX by modifying pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange and to reflect a pass through of a pricing increase by NYSE. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates for liquidity added to the Exchange, which is intended to draw additional liquidity to the Exchange. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(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 unsolicited 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 [17] and paragraph (f) of Rule 19b–4 thereunder.[18] 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 proposal 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 No. SR–CboeBZX–2018–030 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–CboeBZX–2018–030. 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 will also 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–CboeBZX–2018–030 and should be submitted on or before June 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10380 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83211; File No. SR–CboeBYX–2018–004]

Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Cboe BYX Exchange, Inc.

May 10, 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 BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') 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 amend the fee schedule applicable to Members [5] and non-Members of the Exchange pursuant to BYX Rules 15.1(a) and (c).

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

[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] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule applicable to its equities trading platform (''BYX Equities'') to increase the fee for orders yielding fee code D, which results from an order routed to the New York Stock Exchange (''NYSE'') using Destination Specific, RDOT, RDOX, TRIM or SLIM routing strategy. Particularly, NYSE recently implemented certain pricing changes related to Tapes B and C securities, including adopting a per tape fee of $0.00280 per share to remove liquidity from the Exchange for member organizations with an Adding ADV of at least 50,000 shares for that respective Tape.[6] Based on the changes in pricing at NYSE, the Exchange is proposing to increase its fee for orders executed at NYSE that yield fee code D from $0.00265 to $0.00280.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[9] which requires that Exchange rules 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 proposed fee is reasonable because it reflects a pass-through of the pricing increase by NYSE noted above. The Exchange further believes the proposed fee change is non-discriminatory because it applies uniformly to all Members.

(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 does not believe that the proposed change to the Exchange's routing pricing burdens competition, as it's based on the pricing of another venue and applies uniformly to all Members. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. The Exchange does not believe the proposed amendments would burden intramarket competition as they would be available to all Members uniformly.

(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 unsolicited 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[10] and paragraph (f) of Rule 19b–4 thereunder.[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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal 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 No. SR–CboeBYX–2018–004 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–CboeBYX–2018–004. 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 will also 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–CboeBYX–2018–004 and should be submitted on or before June 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10381 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[6] *See* NYSE Trader Update, NYSE—Fees for Trading Tapes B and C securities, dated April 2, 2018, *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Fee_Change_BandC_April2018.pdf.*

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83208; File No. 4–536]

Program for Allocation of Regulatory Responsibilities Pursuant To Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Between the Financial Industry Regulatory Authority, Inc., Cboe Exchange, Inc., and Cboe C2 Exchange, Inc.

May 10, 2018.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on May 4, 2018, pursuant to Rule 17d–2 of the Act,[2] by the Financial Industry Regulatory Authority, Inc. (''FINRA''), Cboe Exchange, Inc. (''Cboe''), and Cboe C2 Exchange, Inc. (''C2'') (collectively, ''Participating Organizations'' or ''parties''). This Agreement amends and restates the agreement entered into between FINRA, Cboe, and C2 on March 21, 2014, entitled ''Agreement Among Financial Industry Regulatory Authority, Inc., Chicago Board Options Exchange, Incorporated, and C2 Options Exchange, Incorporated Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On May 14, 2007, the Commission declared effective the Plan entered into between NASD (n/k/a FINRA) and Cboe for allocating regulatory responsibility pursuant to Rule 17d–2.[11] On May 9, 2014, the Commission declared effective an amendment to the Plan to add C2 as a Participant to the Plan.[12] The Plan is intended to reduce regulatory duplication for firms that are common members of FINRA and at least one of Cboe or C2 by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every Cboe and C2 rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to CBOE or C2 members that are also members of FINRA and the associated persons therewith.

III. Proposed Amendment to the Plan

On May 4, 2018, the parties submitted a proposed amendment to the Plan (''Amended Plan''). The primary purposes of the Amended Plan are to (1) remove Cboe's former equities trading facility, CBSX, from the Plan; (2) to the extent that it becomes a member of either exchange, allocate regulatory responsibility to FINRA for Cboe's and C2's affiliated routing broker-dealer, Cboe Trading, Inc.; and (3) allocate surveillance, investigation, and enforcement responsibilities for Rule 14e-4 under the Act . The text of the proposed Amended Plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

Agreement Among Financial Industry Regulatory Authority, Inc., [Chicago Board Options Exchange, Incorporated] *CBOE Exchange, Inc.,* and *CBOE* C2 [Options] Exchange, [Incorporated] *Inc.* Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934

This Agreement, by and among Financial Industry Regulatory Authority, Inc. (''FINRA''), [the Chicago

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 55755 (May 14, 2007), 72 FR 28087 (May 18, 2007).

[12] *See* Securities Exchange Act Release No. 72137 (May 9, 2014), 79 FR 27965 (May 15, 2014).

Board Options Exchange, Incorporated]*Cboe Exchange, Inc.* (''[CBOE]*Cboe*''), and *Cboe* C2 [Options] Exchange, [Incorporated]*Inc.* (''C2'') is made this [21st]*4th* day of [March, 2014] *May, 2018* (the ''Agreement''), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the ''Exchange Act'') and Rule 17d–2 thereunder which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA, [CBOE]*Cboe* and C2 may be referred to individually as a ''party'' and together as the ''parties.''

This Agreement amends and restates the agreement entered into between [NASD (n/k/a] FINRA[) and], [CBOE]*Cboe and C2* on [April 4, 2007]*March 21, 2014,* entitled ''Agreement [between NASD and CBOE]*Among Financial Industry Regulatory Authority, Inc., Chicago Board Options Exchange, Incorporated, and C2 Options Exchange, Incorporated* Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter.

WHEREAS, the parties desire to reduce duplication in the examination of their Common Members (as defined herein) and in the filing and processing of certain registration and membership records as it relates to [the CBOE]*Cboe* [options exchange,]*and* C2 [options exchange and the CBOE equity exchange facility operated by CBOE Stock Exchange, LLC (''CBSX'')]; and

WHEREAS, the parties desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

NOW, THEREFORE, in consideration of the mutual covenants contained hereinafter, the parties hereby agree as follows:

1. Definitions. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*Rule*'' of an ''exchange'' or an ''association'' shall have the meaning defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean the [CBOE]*Cboe* Rules and C2 Rules that are substantially similar to the applicable FINRA Rules in that examination for compliance with such Rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to such rule[; provided, however, Common Rules shall not include the application of SEC, CBOE, C2 or FINRA Rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among the BATS Exchange, Inc., BATS–Y Exchange, Inc., CBOE, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., FINRA, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Amex LLC, and NYSE Arca Inc., effective December 16, 2011, as may be amended from time to time]. *Common Rules shall not include any provisions regarding: (i) Notice, reporting or any other filings made directly to or from C2 or Cboe; (ii) incorporation by reference of other C2 or Cboe Rules that are not Common Rules; (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority by C2 or Cboe; (iv) prior written approval of C2 or Cboe; and (v) payment of fees or fines to C2 or Cboe.*

(c) ''*Common Members*'' shall mean members of FINRA and at least one of [CBOE]*Cboe* or C2.

(d) ''*Effective Date*'' shall be the date this Agreement is approved by the Commission.

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with FINRA's Code of Procedure (the Rule 9000 Series) and other applicable FINRA procedural Rules, to determine whether violations of pertinent laws, rules or regulations have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA's Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the Common Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto. *The term ''Regulatory Responsibility'' shall also include the surveillance, investigation and Enforcement Responsibilities relating to compliance by Common Members with the Rule 14e–4 of the Securities Exchange Act (''Rule 14e–4''), with a focus on the standardized call option provision of Rule 14e–4(a)(1)(ii)(D).*

2. Regulatory and Enforcement Responsibilities. FINRA shall assume Regulatory Responsibilities and Enforcement Responsibilities for Common Members. Attached as *Exhibit 1* to this Agreement and made part hereof, [CBOE]*Cboe* and C2 furnished FINRA with a current list of Common Rules and certified to FINRA that such Rules are substantially similar to the corresponding FINRA Rule (the ''Certification''). FINRA hereby agrees that the Rules listed in the Certification are Common Rules as defined in this Agreement. *Each year following the Effective Date of this Agreement, or more frequently if required by changes in the Rules of the parties,* [CBOE]*Cboe and C2 shall submit an updated list of Common Rules to FINRA for review which shall add* [CBOE]Cboe *or C2 Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete* [CBOE]Cboe *or C2 Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining Rules on the current list of Common Rules continue to be* [CBOE]Cboe *or C2 Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the Rules listed in any updated list are Common Rules as defined in this Agreement.* Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and [CBOE]*Cboe* and C2 shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) the following (collectively, the ''Retained Responsibilities''):

(a) Surveillance and enforcement with respect to trading activities or practices involving [CBOE]*Cboe's* or C2's own marketplace, including without limitation [CBOE]*Cboe's* or C2's Rules relating to the rights and obligations of market makers;

(b) registration pursuant to their applicable Rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of their duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act; and

(d) any [CBOE]*Cboe* Rules and C2 Rules that are not Common Rules, *except Cboe Rules or C2 Rules for any Cboe or C2 affiliate that is a member*

that operates as a facility (as defined in Section 3(a)(2) of the Exchange Act), acts as a router for Cboe or C2 and is a member of FINRA (''Router Member'') as provided in paragraph 6. As of the date of this Agreement, Cboe Trading, Inc. is the only Router Member.

3. Common Members. Prior to the Effective Date, [CBOE]*Cboe* and C2 shall furnish FINRA with a current list of Common Members, which shall be updated no less frequently than once every six months.

4. No Charge. There shall be no charge to [CBOE]*Cboe* and C2 by FINRA for performing the Regulatory Responsibilities and Enforcement Responsibilities under this Agreement except as hereinafter provided. FINRA shall provide[CBOE]*Cboe* and C2 with ninety (90) days advance written notice in the event FINRA decides to impose any charges to [CBOE]*Cboe* and C2 for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, [CBOE]*Cboe* and C2 shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

5. Reassignment of Regulatory Responsibilities. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission, or industry agreement, restructuring the regulatory framework of the securities industry or reassigning Regulatory Responsibilities between self-regulatory organizations. To the extent such action is inconsistent with this Agreement, such action shall supersede the provisions hereof to the extent necessary for them to be properly effectuated and the provisions hereof in that respect shall be null and void.

6. Notification of Violations. In the event that FINRA becomes aware of apparent violations of any [CBOE]*Cboe* or C2 Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify [CBOE]*Cboe* and C2 of those apparent violations for such response as [CBOE]*Cboe* and C2 deems appropriate. In the event, [CBOE]*Cboe* or C2 becomes aware of apparent violations of any Common Rules, discovered pursuant to the Retained Responsibilities, [CBOE]*Cboe* and C2 shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Apparent violations of Common Rules shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a Common Member is the subject of an investigation relating to a transaction on [the CBOE]*Cboe* or C2 options exchanges, [or the CBSX, CBOE]*Cboe* and C2 may in their discretion assume concurrent jurisdiction and responsibility. *With respect to apparent violations of any Cboe or C2 Rules by any Router Member, FINRA shall not make referrals to Cboe or C2 pursuant to this paragraph 6. Such apparent violations shall be processed and enforcement proceedings in respect thereto will be conducted, by FINRA as provided in this Agreement.* Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings.

7. Continued Assistance. FINRA shall make available to [CBOE]*Cboe* and C2 all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder in respect to the Common Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish [CBOE]*Cboe* and C2 any information it obtains about Common Members which reflects adversely on their financial condition. It is understood that such information is of an extremely sensitive nature and, accordingly, [CBOE]*Cboe* and C2 acknowledge and agree to take all reasonable steps to maintain its confidentiality. [CBOE]*Cboe* and C2 shall make available to FINRA any information coming to their attention that reflects adversely on the financial condition of Common Members or indicates possible violations of applicable laws, rules or regulations by such firms.

8. Common Member Applications.

(a) Common Members subject to this Agreement shall be required to submit, and FINRA shall be responsible for processing and acting upon all applications submitted on behalf of allied persons, partners, officers, registered personnel and any other person required to be approved by the Rules of the parties or associated with Common Members thereof. Upon request, FINRA shall advise [CBOE]*Cboe* and C2 of any changes of allied members, partners, officers, registered personnel and other persons required to be approved by the Rules of the parties.

(b) Common Members shall be required to send to FINRA all letters, termination notices or other material respecting the individuals listed in paragraph 8(a).

(c) When as a result of processing such submissions FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a Common Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep [CBOE]*Cboe* and C2 advised of its actions in this regard for such subsequent proceedings as [CBOE]*Cboe* and C2 may initiate.

(d) Notwithstanding the foregoing, FINRA shall not review the membership application, reports, filings, fingerprint cards, notices, or other writings filed to determine if such documentation submitted by a broker or dealer, or a person associated therewith or other persons required to register or qualify by examination meets [the CBOE]*Cboe* or C2 requirements for general membership or for specified categories of membership or participation in the [CBOE]*Cboe* or C2. FINRA shall not review applications or other documentation filed to request a change in the rights or status described in this paragraph 8(d), including termination or limitation on activities, of a member or a participant of [the CBOE]*Cboe* or C2, or a person associated with, or requesting association with, a member or participant of [the CBOE]*Cboe* or C2.

9. Branch Office Information. FINRA shall also be responsible for processing and, if required, acting upon all requests for the opening, address changes, and terminations of branch offices by Common Members and any other applications required of Common Members with respect to the Common Rules as they may be amended from time to time. Upon request, FINRA shall advise [CBOE]*Cboe* and C2 of the opening, address change and termination of branch and main offices of Common Members and the names of such branch office managers.

10. Customer Complaints. [CBOE]*Cboe* and C2 shall forward to FINRA copies of all customer complaints involving Common Members received by [CBOE]*Cboe* and C2 relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

11. Advertising. FINRA shall assume responsibility to review the advertising of Common Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is

accompanied with any applicable filing fees set forth in FINRA Rules. Such review shall be made in accordance with then applicable FINRA Rules and interpretations. The advertising of Common Members shall be subject only to compliance with appropriate FINRA Rules and interpretations.

12. No Restrictions on Regulatory Action. Nothing contained in this Agreement shall restrict or in any way encumber the right of any party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against Common Members, as any party, in its sole discretion, shall deem appropriate or necessary.

13. Termination. This Agreement may be terminated by any party at any time upon the approval of the Commission after one (1) year's written notice (or such shorter time as may be agreed by the parties) to the other parties, except as provided in paragraph 4.

14. Effective Date. This Agreement shall be effective upon approval of the Commission.

15. Arbitration. In the event of a dispute among the parties as to the operation of this Agreement, the parties hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.

16. Separate Agreement. This Agreement is wholly separate from the following agreements: (1) The multiparty Agreement made pursuant to Rule 17d–2 of the Exchange Act among [BATS]*Bats BZX* Exchange, Inc., BOX Options Exchange, LLC, [CBOE]*Cboe,* C2, *[*the International Securities Exchange]*Nasdaq ISE,* LLC, FINRA, *Miami International Securities Exchange, LLC, MIAX PEARL, LLC,* [the New York Stock Exchange, LLC,] NYSE [Amex]*American* LLC, the NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ [OMX] BX, Inc., [and] NASDAQ [OMX] PHLX LLC*, Nasdaq GMX, LLC, Nasdaq MRX, LLC, and Bats EDGX Exchange, Inc.* involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered into on [April 25, 2012]*January 13, 2017,* and as may be amended from time to time; and (2) the multiparty Agreement made pursuant to Rule 17d–2 of the Exchange Act among NYSE [Amex]*American* LLC, [BATS]*Bats BZX* Exchange, Inc., C2, [CBOE]*Cboe,* [International Securities Exchange]*Nasdaq ISE,* LLC, FINRA, NYSE Arca, Inc., The NASDAQ Stock Market LLC, the BOX Options Exchange, LLC, NASDAQ [OMX] BX, Inc., [and] NASDAQ [OMX] PHLX LLC*, Nasdaq GMX, LLC, Nasdaq MRX, LLC, Bats EDGX Exchange, Inc., Miami International Securities Exchange, LLC, and MIAX PEARL, LLC,* involving the allocation of regulatory responsibilities with respect to SRO market surveillance of common members activities with regard to certain common rules relating to listed options entered into on [April 25, 2012]*January 23, 2017,* and as may be amended from time to time.

17. Notification of Members. The parties shall notify Common Members of this Agreement after the Effective Date by means of a uniform joint notice.

18. Amendment. This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

19. Limitation of Liability. None of the parties nor any of their respective directors, governors, officers or employees shall be liable to any other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by any party and caused by the willful misconduct of another party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by any party hereto with respect to any of the responsibilities to be performed by them hereunder.

20. Relief from Responsibility. Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d–2 thereunder, FINRA, C2 and [CBOE]*Cboe* join in requesting the Commission, upon its approval of this Agreement, to relieve [CBOE]*Cboe* and C2 of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

21. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

* * * * *

Exhibit 1

Exhibit 1 is deleted in its entirety and replaced with the following:

CBOE and C2 Certification of Common Rules

Cboe and C2 hereby certify that the requirements contained in the Rules listed below are identical to, or substantially similar to, the NASD/FINRA or SEC Rules identified.

Common Rules shall not include any provisions regarding (i) notice, reporting or any other filings made directly to or from C2 or Cboe; (ii) incorporation by reference of other C2 or Cboe Rules that are not Common Rules; (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority by C2 or Cboe; (iv) prior written approval of C2 or Cboe; and (v) payment of fees or fines to C2 or Cboe.

C2 rule(s)	CBOE rule(s)	NASD/FINRA or SEC rule(s)
	3.4 Foreign Trading Permit Holders	NASD Rule 1090 Foreign Members.
3.4(a) Qualification and Registration	3.6A(a) Qualification and Registration of Trading Permit Holders and Associated Persons #.	NASD Rule 1031(a) Registration Requirements and NASD Rule 1060(a)(1)–(4)(A), (C) and (D) Persons Exempt from Registration.
3.4(b) Qualification and Registration	3.6A(b) Qualification and Registration of Trading Permit Holders and Associated Persons #.	NASD Rule 1022(b) Categories of Principal Registration.
3.4(c) Qualification and Registration	3.6A(c) Qualification and Registration of Trading Permit Holders and Associated Persons.	NASD Rule 1022(a)(1)(C) Categories of Principal Registration. [1]
3.4(e) Qualification and Registration	3.6A(e) Qualification and Registration of Trading Permit Holders and Associated Persons.	NASD Rule 1021(c) Registration Requirements.

C2 rule(s)	CBOE rule(s)	NASD/FINRA or SEC rule(s)
3.4 Qualification and Registration, Interpretation and Policy .01.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretations and Policies .01 and .02.	FINRA Rule 1010(c) Electronic Filing Requirements for Uniform Forms and FINRA Bylaws Article V, Sec. 2.
3.4 Qualification and Registration, Interpretations and Policies .03.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretations and Policies .04.	FINRA Rule 1250 Continuing Education Requirements.
3.4 Qualification and Registration, Interpretation and Policy.04.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretation and Policy .05 #.	NASD Rule 1070(d) Qualifications Examinations and Waiver Requirements.
3.4 Qualification and Registration, Interpretation and Policy .06.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretation and Policy .07 #.	NASD Rule 1021(a) and (b) Registration Requirements, NASD Rule 1022(a)(6), and 1032(f) Categories of Representative Registration.
3.4 Qualification and Registration, Interpretation and Policy .07.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretation and Policy .08.	NASD Rule 1022(a)(6) Categories of Principal Registration.
3.4 Qualification and Registration, Interpretation and Policy .08.	3.6A Qualification and Registration of Trading Permit Holders and Associated Persons, Interpretation and Policy .09.	NASD Rule 1031(a) Registration Requirements and FINRA Bylaws Article V., Sec. 1.
	3.7(c) Certain Documents Required of Trading Permit Holders, Applicants and Associated Persons.	Exchange Act Rule 17f–2.
	3.7(d) Certain Documents Required of Trading Permit Holders, Applicants and Associated Persons.	NASD Rule 1013(a)(2) New Member Application and Interview, and FINRA Bylaws Article IV, Sec. 1.
Chapter 4 Business Conduct—CBOE Rule 4.1 incorporated by reference.	4.1 Just and Equitable Principles of Trade ...	FINRA Rule 2010 Standards of Commercial Honor and Principles of Trade.
Chapter 4 Business Conduct—CBOE Rule 4.7 incorporated by reference.	4.7 Manipulation	FINRA Rule 2020 Use of Manipulative, Deceptive or Other Fraudulent Devices and FINRA Rule 6140 Other Trading Practices.
Chapter 4 Business Conduct—CBOE Rule 4.18 is incorporated by reference.	4.18 Prevention of the Misuse of Material, Nonpublic Information #.	Section 15(g) of the Securities Exchange Act of 1934 (Exchange Act) and FINRA Rule 3110(b)(1) and (d) Supervision.
Chapter 4 Business Conduct—CBOE Rule 4.20 is incorporated by reference.	4.20 Anti-Money Laundering Compliance Program.	FINRA Rule 3310 Anti-Money Laundering Compliance Program. [2]
Chapter 9 Doing Business with the Public—CBOE Rule 9.3A is incorporated by reference.	9.3A Continuing Education For Registered Persons #.	FINRA Rule 1250 Continuing Education Requirements.
Chapter 9 Doing Business with the Public—CBOE Rule 9.4(a) is incorporated by reference.	9.4(a) Other Affiliations of Registered Associated Persons.	FINRA Rule 3270 Outside Business Activities of Registered Persons. [3]
Chapter 9 Doing Business with the Public—CBOE Rule 9.13 is incorporated by reference.	9.13 Statement of Financial Condition to Customers.	Exchange Act Rule 17a–5.
Chapter 9 Doing Business with the Public—CBOE Rule 9.16 is incorporated by reference.	9.16 Restrictions on Pledge and Lending of Customers' Securities.	FINRA Rule 4330 Customer Protection—Permissible Use of Customers' Securities.
Chapter 9 Doing Business with the Public—CBOE Rule 9.20 is incorporated by reference.	9.20 Transfer of Accounts #	FINRA Rule 11870 Customer Account Transfer Contracts.
Chapter 9 Doing Business with the Public—CBOE Rule 9.24 is incorporated by reference.	9.24 Telemarketing	FINRA Rule 3230 Telemarketing.
Chapter 9 Doing Business with the Public—CBOE Rule 9.25 is incorporated by reference.	9.25 Borrowing From or Lending to Customers.	FINRA Rule 3240 Borrowing From or Lending to Customers.

[1] FINRA shall have Regulatory Responsibilities to the extent the heighted qualification exam requirement of the Cboe and C2 rule is satisfied by the Series 24.

[2] FINRA shall not have any Regulatory Responsibilities regarding the requirement to conduct independent testing during the first calendar year of a broker-dealer becoming a Trading Permit Holder or TPH organization; responsibility for such requirement remains with Cboe and C2, as applicable.

[3] FINRA shall not have any Regulatory Responsibilities regarding the requirement that the Trading Permit Holder provide prior written consent to the TPH organization; responsibility for such requirement remains with Cboe and C2, as applicable.

The following provisions are covered:

- Rule 200 of Regulation SHO—Definition of Short Sales and Marking Requirements
- Rule 203 of Regulation SHO—Borrowing and Delivery Requirements
- Rule 204 of Regulation SHO—Close-Out Requirement
- Rule 105 of Regulation M—Short Selling in Connection with a Public Offering
- Section 14(e) of the Exchange Act
- Rule 14e–4 of the Exchange Act—Prohibited Transactions in Connection with Partial Tender Offers ∧
- Regulation ATS
- Regulation S–P

∧ FINRA shall perform surveillance, investigation and Enforcement Responsibilities for SEA Rule 14e–4(a)(1)(ii)(D).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–536 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 4–536. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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 plan also will be available for inspection and copying at the principal offices of FINRA, Cboe, and C2. 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 4–536 and should be submitted on or before June 6, 2018.

V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act [13] and Rule 17d–2(c) thereunder [14] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Common Members that would otherwise be performed by Cboe, C2, and FINRA. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Common Members. Furthermore, because Cboe, C2, and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, Cboe, C2, and FINRA have allocated regulatory responsibility for those Cboe and C2 rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, Cboe and C2 will review the Certification, at least annually, or more frequently if required by changes in either the rules of Cboe, C2, or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add Cboe and C2 rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete Cboe and C2 rules included in the then-current list of Common Rules that no longer qualify as common rules; and confirm that the remaining rules on the list of Common Rules continue to be Cboe and C2 rules that qualify as common rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Amended Plan. Under the Amended Plan, Cboe and C2 will also provide FINRA with a current list of Common Members and shall update the list no less frequently than once every six months.[16] The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all Cboe and C2 rules that are substantially similar to the rules of FINRA for Common Members of Cboe and FINRA, and C2 and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to Cboe or C2 rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the Parties decide to add a Cboe or C2 rule to the Certification that is not substantially similar to a FINRA rule; delete a Cboe or C2 rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a Cboe or C2 rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[17]

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purposes of the amendment are to remove Cboe's former equities trading facility, CBSX, from the Plan; (2) to the extent that it becomes a member of either exchange, allocate regulatory responsibility to FINRA for Cboe's and C2's affiliated routing broker-dealer, Cboe Trading, Inc.; and (3) allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act . By declaring it effective today, the Amended Plan can become effective and be implemented without undue delay. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[18] Furthermore, the Commission does not believe that the amendment to the plan raises any new

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Amended Plan.

[16] *See* paragraph 3 of the Amended Plan.

[17] The Commission also notes that the addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Common Members, also would constitute an amendment to the Amended Plan.

[18] *See supra* note 12 (citing to Securities Exchange Act Release No. 72137).

regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–536. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–536, between the FINRA, Cboe, and C2, filed pursuant to Rule 17d–2 under the Act, hereby is approved and declared effective.

It is further ordered that Cboe and C2 are relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–536.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10369 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(34).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15520 and #15521; KENTUCKY Disaster Number KY–00068]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4361–DR), dated 04/26/2018.

Incident: Severe Storms, Tornadoes, Flooding, Landslides, and Mudslides.

Incident Period: 02/21/2018 through 03/21/2018.

DATES: Issued on 04/26/2018.

Physical Loan Application Deadline Date: 06/25/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 01/28/2019.

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 04/26/2018, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Boyd, Bullitt, Butler, Caldwell, Campbell, Carlisle, Carroll, Carter, Crittenden, Fulton, Gallatin, Grant, Graves, Greenup, Hancock, Hardin, Henderson, Henry, Hickman, Jefferson, Kenton, Lawrence, Livingston, McCracken, McLean, Metcalfe, Ohio, Owen, Spencer, Trigg, Trimble, Union, Washington, Webster.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155206 and for economic injury is 155210.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–10368 Filed 5–15–18; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15518 and #15519; HAWAII Disaster Number HI–00046]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Hawaii

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Hawaii (FEMA–4365–DR), dated 05/08/2018.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 04/13/2018 through 04/16/2018.

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, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Areas: The City and County of Honolulu and Kaua'i County.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.500
Non-Profit Organizations without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 155186 and for economic injury is 155190.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2018–10372 Filed 5–15–18; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10409]

Overseas Security Advisory Council (OSAC) Meeting Notice

Closed Meeting

The Department of State announces a meeting of the U.S. State Department

Overseas Security Advisory Council on June 6, 2018. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, a global threat overview, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone 571–345–2214.

Thomas G. Scanlon,

Executive Director, Overseas Security Advisory Council, Department of State.

[FR Doc. 2018–10426 Filed 5–15–18; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice 10410]

Bureau of Oceans and International Environmental and Scientific Affairs

ACTION: Annual certification of shrimp-harvesting nations.

SUMMARY: On May 8, 2018, the Department of State certified that 13 shrimp-harvesting nations and five fisheries have a regulatory program comparable to that of the United States governing the incidental taking of the relevant species of sea turtles in the course of commercial shrimp harvesting and that the particular fishing environments of 26 shrimp-harvesting nations, one economy, and four fisheries do not pose a threat of the incidental taking of covered sea turtles in the course of such harvesting.

DATES: This notice is applicable on May 16, 2018.

FOR FURTHER INFORMATION CONTACT: Section 609 Program Manager, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, 2201 C Street NW, Washington, DC 20520–2758; telephone: (202) 647–3263; email: *DS2031@state.gov.*

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101–162 (''Sec. 609'') prohibits imports of certain categories of shrimp unless the President certifies to the Congress by May 1, 1991, and annually thereafter, that either: (1) The harvesting nation has adopted a program governing the incidental taking of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States and has an incidental take rate comparable to that of the United States; or (2) the particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State (''the Department''). The Department's Revised Guidelines for the Implementation of Section 609 were published in the **Federal Register** on July 8, 1999, at 64 FR 36946.

On May 8, 2018, the Department certified 13 nations on the basis that their sea turtle protection programs are comparable to that of the United States: Colombia, Costa Rica, Ecuador, El Salvador, Gabon, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Nigeria, Panama, and Suriname. The Department also certified 26 shrimp-harvesting nations and one economy as having fishing environments that do not pose a danger to sea turtles. Sixteen nations have shrimping grounds only in cold waters where the risk of taking sea turtles is negligible: Argentina, Belgium, Canada, Chile, Denmark, Finland, Germany, Iceland, Ireland, the Netherlands, New Zealand, Norway, Russia, Sweden, the United Kingdom, and Uruguay. Ten nations and Hong Kong only harvest shrimp using small boats with crews of less than five that use manual rather than mechanical means to retrieve nets or catch shrimp using other methods that do not threaten sea turtles. Use of such small-scale technology does not adversely affect sea turtles. The 10 nations are the Bahamas, Belize, China, the Dominican Republic, Fiji, Jamaica, Oman, Peru, Sri Lanka, and Venezuela.

A completed DS–2031 Shrimp Exporter's/Importer's Declaration must accompany all shipments of shrimp or products from shrimp into the United States. Only shrimp or products from shrimp harvested in the 39 certified nations and one economy listed above may be accompanied by a DS–2031 with Box 7(B) checked. All DS–2031 forms accompanying shrimp imports from uncertified nations must be originals with Box 7(A)(1), 7(A)(2), or 7(A)(4) checked, consistent with the form's instructions with regard to the method of harvest of the product and based on any relevant prior determinations by the Department, and signed by a responsible government official of the harvesting nation's competent domestic fisheries authority. The Department has not determined that any uncertified nation qualifies to export shrimp or products from shrimp harvested in a manner as described in 7(A)(3).

Shrimp and products of shrimp harvested with turtle excluder devices (''TEDs'') in an uncertified nation may, under specific circumstances, be eligible for importation into the United States under the DS–2031 Box 7(A)(2) provision for ''shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.'' Use of this provision requires that the Department determine in advance that the government of the harvesting nation has put in place adequate procedures to monitor the use of TEDs in the specific fishery in question and to ensure the accurate completion of the DS–2031 forms. At this time, the Department has determined that only shrimp and products from shrimp harvested in the Northern Prawn Fishery, the Queensland East Coast Trawl Fishery, and the Torres Strait Prawn Fishery in Australia, in the French Guiana domestic trawl fishery, and in the East Coast fishery of peninsular Malaysia are eligible for entry under this provision. The importation of TED-caught shrimp from any other uncertified nation will not be allowed. A responsible government official of Australia, France, or Malaysia must sign in Block 8 of the DS–2031 form accompanying these imports into the United States.

In addition, the Department has determined that shrimp and products from shrimp harvested in the Spencer Gulf region in Australia, with shrimp baskets in Hokkaido, Japan, with ''mosquito'' nets in the Republic of Korea, and Mediterranean red shrimp (*Aristeus antennatus)* and products from that shrimp harvested in the Mediterranean Sea by Spain may be imported into the United States under the DS–2031 Box 7(A)(4) provision for ''shrimp harvested in a manner or under circumstances determined by the Department of State not to pose a threat of the incidental taking of sea turtles.'' A responsible government official of Australia, Japan, the Republic of Korea, or Spain must sign in Block 8 of the DS–2031 form accompanying these imports into the United States.

The Department has communicated these certifications and determinations under Sec. 609 to the Office of

International Trade of U.S. Customs and Border Protection.

William Gibbons-Fly,

Acting Deputy Assistant Secretary of State for Oceans and Fisheries, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

[FR Doc. 2018–10432 Filed 5–15–18; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0043]

Motorcyclist Advisory Council to the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the second meeting of the Motorcyclist Advisory Council (MAC) to the FHWA. The purpose of this meeting is to advise the Secretary of Transportation, through the Administrator of the FHWA, on infrastructure issues of concern to motorcyclists, including barrier design; road design, construction, and maintenance practices; and the architecture and implementation of intelligent transportation system technologies, pursuant to the Fixing America's Surface Transportation (FAST) Act.

DATES: The MAC will convene virtually, via Web conference connection, from 9:00 a.m. to 1:00 p.m. EST on Thursday, June 7, 2018.

ADDRESSES: The meeting will take place online. There is no physical address for this meeting.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Griffith, the Designated Federal Official, Office of Safety, 202–366–2829, (*mike.griffith@dot.gov*) or Ms. Guan Xu, 202–366–5892, (*guan.xu@dot.gov*) Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this notice may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov*; the Government Publishing Office's database at: *https://www.gpo.gov/fdsys/*; or the specific docket page at: *www.regulations.gov*.

Background

Purpose of the Committee: Section 1426 of the FAST Act, Public Law 114–94, required the FHWA Administrator, on behalf of the Secretary, to establish a MAC. The MAC is responsible for providing advice and making recommendations concerning infrastructure issues related to motorcyclist safety, including barrier design; road design, construction, and maintenance practices; and the architecture and implementation of intelligent transportation system technologies. On July 28, 2017, the Secretary of Transportation appointed 10 members to the MAC, and on December 5, 2017, the MAC held its first meeting in Washington, DC.

Tentative Agenda: The agenda will include a topical discussion of the infrastructure issues described above, namely: Barrier design; road design, construction, and maintenance practices; and the architecture and implementation of intelligent transportation system technologies.

Public Participation: This meeting will be open to the public. Members of the public who wish to attend are asked to send an email to *MAC-FHWA@dot.gov* no later than May 26, 2018, in order to receive access information for the Web conference room. The Designated Federal Official and the Chair of the Committee will conduct the meeting to facilitate the orderly conduct of business. If you would like to file a written statement with the Committee, you may do so either before or after the meeting by submitting an electronic copy of that statement to *MAC-FHWA@dot.gov* or the specific docket page at: *www.regulations.gov*. If you would like to make oral statements regarding any of the items on the agenda, you should contact Mr. Michael Griffith at the phone number listed above or email your request to *MAC–FHWA@dot.gov*. You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provisions will be made to include any such presentation on the agenda. Public comment will be limited to 3 minutes per speaker, per topic.

Services for Individuals with Disabilities: Individuals requiring special accommodations are asked to note this when they send an email about attending to *MAC-FHWA@dot.gov* by May 26, 2018.

Minutes: An electronic copy of the minutes from all meetings will be available for download within 60 days of the conclusion of the meeting at: *https://safety.fhwa.dot.gov/motorcycles/*.

Authority: Section 1426 of Pub. L. 114–94.

Issued on: May 9, 2018.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2018–10416 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0120]

Agency Information Collection Activities; Revision of an Information Collection: Financial Responsibility, Trucking and Freight Forwarding

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its revision and approval and invites public comment. The ICR is related to Form BMC–32 titled, ''Endorsement for Household Goods Motor Carrier Policies of Insurance for Cargo Liability Under 49 U.S.C. 13906.''

DATES: We must receive your comments on or before July 16, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA–2018–0120 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments, see the Public Participation heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov,* and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the Federal eRulemaking Portal website. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Jeff Secrist, Office of Registration & Safety Information, Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: 202–385–2367; email *jeff.secrist@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Transportation (Secretary) is authorized to register for-hire motor carriers of property and passengers under the provisions of 49 U.S.C. 13902, surface freight forwarders under the provisions of 49 U.S.C. 13903, and property brokers under the provisions of 49 U.S.C. 13904. These persons may conduct transportation services only if they are registered pursuant to 49 U.S.C. 13901. The Secretary has delegated authority pertaining to these registration requirements to the FMCSA. The registration remains valid only if these transportation entities maintain, on file with the FMCSA, evidence of the required levels of financial responsibility pursuant to 49 U.S.C. 13906. FMCSA regulations governing the financial responsibility requirements for these entities are found at 49 CFR part 387. Form BMC–32 is an endorsement that must be attached to cargo insurance policies, but it is not filed with the FMCSA.

The Agency is seeking approval for use of Form BMC–32 titled, ''Endorsement for Household Goods Motor Carrier Policies of Insurance for Cargo Liability Under 49 U.S.C. 13906.'' Previously, Form BMC–32 was included as part of the collection covered by OMB Control Number 2126–0017 (''Financial Responsibility, Trucking and Freight Forwarding''). The last Notice of OMB Action providing approval of the BMC–32 form under OMB Control Number 2126–0017 was February 23, 2006, with an expiration date of February 28, 2009. Because 2126–0017 was recently renewed without including Form BMC–32, FMCSA is seeking approval of the form, with the intent of combining this approval with OMB Control Number 2126–0017.

Title: Financial Responsibility, Trucking and Freight Forwarding.

OMB Control Number: 2126–0017.

Type of Request: Revision of an approved ICR.

Respondents: Household goods carriers and household goods freight forwarders.

Estimated Number of Respondents: 4,773.

Estimated Time per Response: 10 minutes.

Expiration Date: May 31, 2020.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 796 hours [4,773 respondents × 10 minutes per response].

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: May 9, 2018.

G. Kelly Regal,

Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2018–10439 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2006–23686]

Petition for Approval of Product Safety Plan

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 4, 2018, BNSF Railway Company (BNSF), with participating railroads Union Pacific Railroad (UP) and Canadian Pacific Railway (CP), petitioned the Federal Railroad Administration (FRA) for approval of a Product Safety Plan (PSP) pursuant to 49 CFR 236.907(a). FRA assigned the petition Docket Number FRA–2006–23686.

BNSF, with participant railroads UP and CP, request FRA approval of a PSP for the Dual Radar Roadway Vehicle Detector (VDR24). The VDR24, supplied by Island Radar, is used as a vehicle detection subsystem for four-quadrant gate crossing warning systems, with its intended application as an alternative to inductive loop vehicle detectors.

The petition asserts that this PSP addresses all requirements of 49 CFR 236.907(a).

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 July 2, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* 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. 2018–10444 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; BMW of North America, LLC

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the BMW of North America, LLC's (BMW) petition for exemption of the 8 series vehicle line in accordance with *Exemption from the Theft Prevention Standard.* This petition is granted because the Agency has determined that the antitheft device to be placed on the vehicle line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention Standard* (Theft Prevention Standard). BMW also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, National Highway Traffic Safety Administration, West Building, Room W43–439, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's telephone number is 202–366–5222. Her fax number is 202–493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated January 12, 2018, BMW requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the 8 series vehicle line beginning with MY 2019. The petition requested an exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, BMW provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its 8 series vehicle line. BMW stated that its 8 series vehicle line will be installed with a passive, electronically-coded, vehicle immobilizer system (EWS) as standard equipment that will prevent the vehicle from being driven away under its own engine power. Key features of the antitheft device will include a remote-control w/mechanical key, ring antenna (transponder coil), low frequency antenna (LF), engine control unit (DME/DDE) with encoded start release input, a passive immobilizer, and an EWS (BDC) control unit. BMW also stated that it will not offer an audible or visible alarm feature on the proposed device.

BMW's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of Part 543.6, BMW provided information on the reliability and durability of its device. To ensure reliability and durability of its device, BMW stated that it conducted tests on the antitheft device which complied with its own specific standards. BMW further stated that its antitheft device fulfills the requirements of the January 1995 European vehicle insurance companies. In further addressing the reliability and durability of its device, BMW provided information on the uniqueness of its mechanical keys to be used on the 8 series vehicle line. Specifically, BMW stated that the vehicle's mechanical keys are unique because they require a special key blank, cutting machine and a unique vehicle code to allow for key duplication. BMW also stated that the mechanical keys cannot be used to deactivate the device but that activation must be done electronically. BMW further stated that the new keys will only be issued to authorized persons and will incorporate special guide-way millings, making the locks almost impossible to pick and the keys impossible to duplicate on the open market.

BMW stated that activation of its antitheft device occurs automatically when the engine is shut off and the vehicle key is removed from the ignition system. BMW stated that a transponder (transmitter/receiver) in the radio frequency remote control communicates with the EWS (BDC) control unit providing the interface to the loop antenna (coil), engine control unit and starter. After an initial starting value, the authentication uses the challenge response technique with symmetric secret key. BMW further stated that when the control unit identifies the correct release signal, the ignition signal and fuel supply are released allowing operation of the vehicle.

BMW also stated that the vehicle is equipped with a central-locking system that can be operated to lock and unlock all doors or to unlock only the driver's door, preventing forced entry into the vehicle through the passenger doors. BMW further stated that the vehicle can be further secured by locking the doors and hood using either the key-lock cylinder on the driver's door or the remote frequency remote control. BMW stated that the frequency for the remote control constantly changes to prevent an unauthorized person from opening the vehicle by intercepting the signals of its remote control.

BMW further stated that all of its vehicles are currently equipped with antitheft devices as standard equipment, including its 8 series vehicle line. BMW compared the effectiveness of its antitheft device with devices which NHTSA has previously determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements of part 541. Specifically, BMW has installed its antitheft device

on its X1 (MPV and passenger cars), X2, X3, X4 and X5 vehicle lines, as well as its Carline 1, 3, 4, 5, 6, 7, Z4, MINI and MINI Countryman vehicle lines, all which have been granted parts-marking exemptions by the Agency. BMW asserts that theft data have indicated a decline in theft rates for vehicle lines that have been equipped with antitheft devices similar to that which it proposes to install on the 8 series vehicle line. BMW stated that for MY/CY 2014, the Agency's data show that the theft rates for its vehicle lines are: 0.47 (2-series), 0.91 (3-series), 0.80 (4-series), 0.90 (5-series), 1.83 (6-series) 2.85 (7-series), 0.30 (X1), 0.60 (X3), 0.00 (X5), 0.43 (Z4), 0.00 (i3), 0.00 (i8) and 0.41 (MINI Cooper). Using an average of 3 MYs data (2012–2014), NHTSA's theft rates for BMW's 2 series, 3 series, 4 series, 5 series, 6 series, 7 series, X1, X3, X5, Z4, i3, i8 and MINI Cooper vehicle lines are 0.7416, 0.7566, 0.8041, 1.0805, 2.5509, 2.0632, 0.2672, 0.6117, 0.0000, 0.8159, 0.0000, 0.0000 and 0.2379 respectively, all below the median theft rate of 3.5826.

Based on the supporting evidence submitted by BMW, the Agency believes that the antitheft device for the BMW 8 series vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). The Agency concludes that the device will provide four of the five types of performance listed in § 543.6(a)(3): Promoting activation; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the Agency grants a petition for exemption from the parts-marking requirements of Part 541, either in whole or in part, if it determines that, based upon supporting evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The Agency finds that BMW has provided adequate reasons for its belief that the antitheft device for the 8 series vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information BMW provided about its device.

For the foregoing reasons, the Agency hereby grants in full BMW's petition for exemption for the MY 2019 8 series vehicle line from the parts-marking requirements of 49 CFR part 541. The Agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given MY. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If BMW decides not to use the exemption for this line, it must formally notify the Agency. If such a decision is made, the line must be fully marked as required by 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if BMW wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption.

Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, § 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The Agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The Agency did not intend Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes the effects of which might be characterized as *de minimis,* it should consult the Agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR Part 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2018–10428 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0052]

Denial of Motor Vehicle Defect Petition, DP17–002

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for a defect investigation.

SUMMARY: This document denies a January 11, 2017, petition, as submitted under Office of Defects Investigation (ODI) ID number 10944318, from Ms. Laura Nagel of Springfield, VA, requesting that the agency open an investigation into an alleged defect resulting in engine stall without warning after refueling in a model year (MY) 2007 Jeep Patriot. The petitioner's vehicle is a 2007 Jeep Patriot. The National Highway Traffic Safety Administration (NHTSA) evaluated the petition by analyzing consumer complaints submitted to the Agency, by reviewing two prior evaluations of the same apparent defect issue, and by reviewing technical and field information provided by FCA US, LLC (FCA) in response to an information request letter from the Agency. After completing this evaluation, NHTSA has concluded that further investigation of the alleged defect in the subject vehicles is unlikely to result in a determination that a safety related defect exists. The agency accordingly denies the petition.

FOR FURTHER INFORMATION CONTACT: Dr. Abhijit Sengupta, Office of Defects Investigation, NHTSA, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366–4293.

SUPPLEMENTARY INFORMATION:

Alleged Defect

The petitioner alleges that her MY 2007 Jeep Patriot vehicle experienced multiple incidents of engine stall without warning shortly after refueling. The petitioner discovered that the defective part is a valve that is integral to the fuel tank, requiring tank replacement to repair the problem. The petitioner alleged that stalling without warning is an unreasonable risk to motor vehicle safety and requests the agency take action by opening a Preliminary Evaluation to fully evaluate the defect.

Engine Stall Defects

The Safety Act, (Chapter 301 of Title 49 of the United States Code (49 U.S.C. 30101 et. seq.)) defines motor vehicle

safety as ''the performance of a motor vehicle or motor vehicle equipment in a way that protects the public against unreasonable risk of accidents occurring because of the design, construction, or performance of a motor vehicle, and against unreasonable risk of death or injury in an accident, and includes nonoperational safety of a motor vehicle.'' In this instance, the risk involved is a low speed engine stall happening immediately after the fuel tank is overfilled. NHTSA considers several factors when assessing the safety risk posed by conditions that may result in engine stall while driving. These include the speeds at which stalling may occur, the ability of the driver to restart the vehicle, the warning available to the driver prior to stalling, the effects of engine stall on vehicle controllability, when and where the stalling may occur and the effects of the condition on other safety systems of the vehicle. In general, conditions that result in engine stall during low-speed operation at idle, such as when slowing to a stop, and where the engine may be restarted right away, are considered by NHTSA to be among the least hazardous types of stalling problems and, absent other risk factors, are not considered to be unreasonable risks to safety.

Prior ODI Investigation PE13–016

On February 10, 2014, ODI closed an investigation of an alleged defect in approximately 153,817 MY 2006 Chrysler 300, Dodge Charger and Dodge Magnum vehicles (LX cars) that may result in engine stall shortly after refueling (PE13–016). In response to ODI's information request for PE13–016, FCA identified a problem with the multifunction control valve (MFCV) fuel shutoff float integrated into 19-gallon fuel tanks in certain LX vehicles. According to FCA, the float may swell after exposure to fuels with high ethanol content, which may cause the valve to stick. A float valve that is stuck open during refueling could result in fuel tank overfill and allow raw fuel to enter the purge line and vapor canister. This could result in problems with engine drivability (*e.g.,* stumble or hesitation) or stall due to a rich fuel mixture while driving, in the brief period immediately after filling the fuel tank.

ODI's complaint review showed most of the engine stall incidents occurred when vehicles were stopped or travelling at low speeds. This review also revealed that no significant difficulty restarting the vehicle was reported and no crashes or injuries were identified in the subject vehicles, which had been in service for 7 to 8 years. The investigation (PE13–016) was closed without a finding of a defect due to the low safety risk associated with the alleged defect condition. Further details of the investigation are available at *https://www.NHTSA.gov.*

Prior ODI Petition DP14–002

In response to ODI's information request letter for DP14–002, FCA indicated that the RS Minivan may experience MFCV float sticking similar to that investigated in PE13–016 and described above. Further details of the investigation are available at *https://www.NHTSA.gov.*

As part of its evaluation of DP14–002, NHTSA's Vehicle Research and Test Center (VRTC) tested a 2005 Chrysler Town & Country LMT (3.6L SFI, 20 gal. fuel tank) that was the subject of an ODI complaint (VOQ 10641603) and proved the vehicle was affected by the sticking in-tank fuel valve. VRTC's examination assessed engine performance after refueling, including the driving conditions and ease of engine restart associated with any observed engine stalls. When refueling the vehicle up to the initial shut-off of the filling station pump nozzle, the VRTC testing was able to reproduce stalling incidents when the vehicle was stopped or coasting to a stop at low speed. The vehicle did not stall 4 out of 5 times when travelling at 5 mph, but minor hesitation was noted. No stalls and only minor hesitation occurred when travelling at 10 mph or above in tanks filled to the initial nozzle shut-off. Stalling was more likely to occur if the tank was overfilled (*i.e.,* adding fuel past the initial fill nozzle shutoff). Testing after overfilling resulted in stalls in 4 of 5 tests at speeds up to 10 mph. Regardless of fill condition, the vehicle could always be immediately restarted after each engine stall.

2008 Jeep Patriot Analysis

In response to ODI's information request letter for DP17–002, FCA indicated that the 2007 Jeep Patriot may experience a condition with MFCV float sticking similar to the one investigated in the LX Cars in PE13–016 and 2007 Chrysler Minivans in DP14–002. As described above in PE13–016, the failure mechanism is a result of a swollen refueling float within the multifunction control valve. The FCA response also indicated no reported accidents or property damage in a fleet of 29,573 vehicles with more than 4 billion vehicle miles driven over 10 years of service. FCA believes that, predicated upon these findings, there is no unreasonable risk to motor safety. Further details of the investigation will be available in the near future at *https://www.NHTSA.gov.*

ODI's complaint analysis of the alleged defect, completed in March 2017, identified 39 post-refueling engine stall incidents in approximately 29,573 vehicles. Similar to the LX Car analysis in PE13–016, and 2007 Chrysler Minivans analysis in DP14–002, the engine stalls occurred immediately after refueling when the vehicle was stopped or coasting to a stop at low speed. There were no allegations of significant difficulty restarting the engines immediately after the stalls occurred. None of the complaints alleged any crash or injury. Based upon the above facts and the conditions in which any stall occurs, ODI concludes that further investigation is unlikely to result in a finding that a defect related to motor vehicle safety exists.

Conclusion

In the Agency's view, additional investigation is unlikely to result in a finding that a defect related to motor vehicle safety exists given the limited conditions under which the subject condition may result in engine stall. Although NHTSA can and will take action before a defect results in a crash, injury or death, the absence of any reported crashes or injuries in a fleet of nearly 30,000 vehicles estimated to have driven 4 billion vehicle miles indicates that further investigation is not warranted under the facts known to the Agency at this time. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied. The Agency will take further action if warranted by future circumstances.

Authority: 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Jeffrey M. Giuseppe,

Associate Administrator for Enforcement.

[FR Doc. 2018–10404 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2018–0063]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Reinstatement of a previously approved collection of information.

SUMMARY: This document solicits public comments on continuation of the requirements for the collection of information entitled ''Consolidated Child Restraint System Registration, Labeling and Defect Notifications'' (OMB Control Number: 2127–0576) and the accuracy of the revised agency's estimate of the burden of the proposed information collection.

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

DATES: You should submit your comments early enough to ensure that Docket Management receives them no later than July 16, 2018.

ADDRESSES: You may submit comments (identified by the DOT Docket ID Number above) by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, 20590–0001 between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Regardless of how you submit your comments, you should mention the docket number of this document. You may call the Docket at 202–366–9324. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance number. It is requested, but not required, that two copies of the comment be provided.

Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Cristina Echemendia, U.S. Department of Transportation, NHTSA, 1200 New Jersey Avenue SE, West Building Room W43–447, NRM–130, Washington, DC 20590. Cristina Echemendia's telephone number is 202–366–6345 and fax number is 202–366–7002. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) 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) 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) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including 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.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collection of information:

Title: ''Consolidated Child Restraint System Registration, Labeling and Defect Notifications.''

OMB Control Number: 2127–0576.

Requested Expiration Date of Approval: Three years from the approval date.

Type of Request: Reinstatement of a previously approved collection.

Affected Public: Businesses, Individuals and Households.

Summary of the Collection of Information: Child restraint manufacturers are required to provide an owner's registration card for purchasers of child safety seats in accordance with title 49 of the Code of Federal Regulation (CFR), part 571–section 213, ''Child restraint systems.'' The registration card is perforated into two-parts (see Figures 1 and 2). The top part contains a message and suitable instructions to be retained by the purchaser. The bottom part is to be returned to the manufacturer by the purchaser. The bottom part includes prepaid return postage, the pre-printed name/address of the manufacturer, the pre-printed model and date of manufacture, and spaces for the purchaser to fill in his/her name and address. Optionally, child restraint manufacturers are permitted to add to the registration form: (a) Specified statements informing child restraint system (CRS) owners that they may register online; (b) the internet address for registering with the company; (c) revisions to statements reflecting use of the internet to register; and (d) a space for the consumer's email address. For those CRS owners with access to the internet, online registration may be a preferred method of registering a CRS.

In addition to the registration card supplied by the manufacturer, NHTSA has implemented a CRS registration system to assist those individuals who have either lost the registration card that came with the CRS or purchased a previously owned CRS. Upon the owner's request, NHTSA provides a substitute registration form that can be obtained either by mail or from the internet [1] (see Figure 3). When the completed registration is returned to the agency, it is then submitted to the CRS manufacturers. In the absence of a substitute registration system, many owners of child passenger safety seats, especially any second-hand owners, might not be notified of safety defects and non-compliances, and would not have the defects and non-compliances remedied.

Child seat owner registration information is retained in the event that owners need to be contacted for defect recalls or replacement campaigns. Chapter 301 of title 49 of the United States Code specifies that if either NHTSA or a manufacturer determines that motor vehicles or items of motor

[1] *http://www-odi.nhtsa.dot.gov/cars/problems/recalls/register/childseat/csregfrm.pdf.*

vehicle equipment contain a defect that relates to motor vehicle safety or fail to comply with an applicable Federal Motor Vehicle Safety Standard, the manufacturer must notify owners and purchasers of the defect or noncompliance and must provide a remedy without charge. In title 49 of the CFR, part 577, defect and noncompliance notification for equipment items, including child restraint systems, must be sent by first class mail to the most recent purchaser known to the manufacturer.

Child restraint manufacturers are also required to provide a printed instructions brochure with step-by-step information on how the restraint is to be used. Without proper use, the effectiveness of these systems is greatly diminished. Each child restraint system must also have a permanent label. A permanently attached label gives ''quicklook'' information on whether the restraint meets the safety requirements, recommended installation and use, and warnings against misuse. CRSs equipped with internal harnesses to restrain children, and with components to attach to a child restraint anchorage system, are also required to be labeled with a child weight limit for using the lower anchors to attach the child restraint to the vehicle. The child weight limit depends upon the weight of the CRS.

Estimated Annual Burden: 99,330 hours.

The total burden hours for this collection consist of: (1) The hours spent by consumers filling out the registration form, (2) the hours spent collecting registration information and (3) the hours spent determining the maximum allowable child weight for lower anchor use and adding the information to the existing label and instruction manual.

NHTSA estimates that 14,500,000 CRSs are currently sold each year by 29 CRS manufacturers. Of the CRSs sold each year, NHTSA estimates that 2,147,504 are registered using registration cards and 421,895 are registered online. A consumer spends approximately 60 seconds (1 minute) filling out the registration form. The estimated annual number of burden hours for consumers to fill out the registration form is 42,823 hours (= 2,569,400 × (60 seconds/3,600 seconds/hour)). Manufacturers must spend about 90 seconds (1.5 min) to enter the information from each returned registration card; while, online registrations are considered to have no burden for the manufacturer, as the information is entered by the purchaser. Therefore, the estimated annual number of burden hours for CRS registration information collection is 53,688 hours (= 2,147,504 × (90 seconds/3,600 seconds/hour)).

About 10,150,000 of the CRSs sold each year are equipped with internal harnesses. About half of the CRSs equipped with internal harnesses sold annually (5,075,000 = 10,150,000 × 0.5) would require a label with the maximum allowable child weight for using the lower anchors. Manufacturers must spend about 2 seconds to determine the maximum allowable child weight for lower anchor use and to add the information to the existing label and instruction manual. Therefore, the total annual burden hours for the information on the maximum allowable child weight in the existing label and instruction manual is 2,819 hours (= 5,075,000 × (2 seconds/3,600 seconds/hour)).

The estimated total annual number of burden hours is 99,330 (= 42,823 + 53,688 + 2,819) hours. The total estimated hour burden increased from 40,497 hours in the 2015 information collection notice to 99,330 burden hours (a 58,833 burden hour increase). The increase in burden is due to the inclusion of the burden hours to consumers for filling the registration form and due to an increase in CRS sales. In 2015, NHTSA estimated that approximately 10,600,000 CRSs are sold each year while NHTSA's estimate in 2018 increased to 14,500,000 CRSs.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

BILLING CODE 4910–59–P

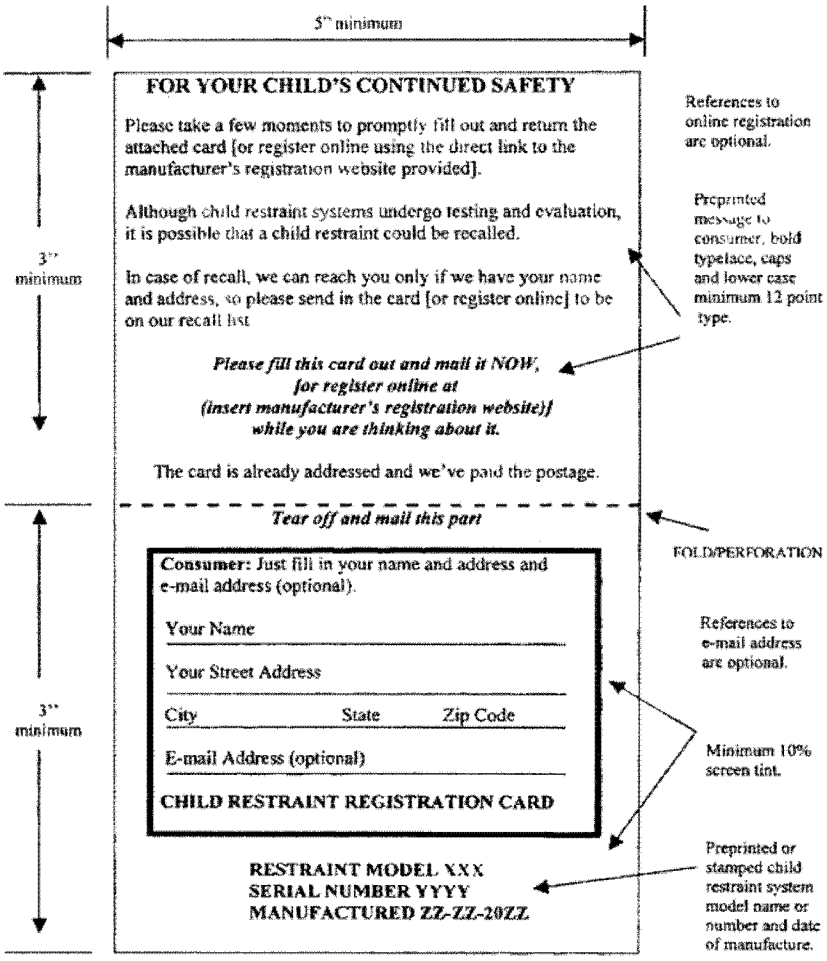

Figure 1 – Registration form for child restraint systems – product identification number and purchaser information side

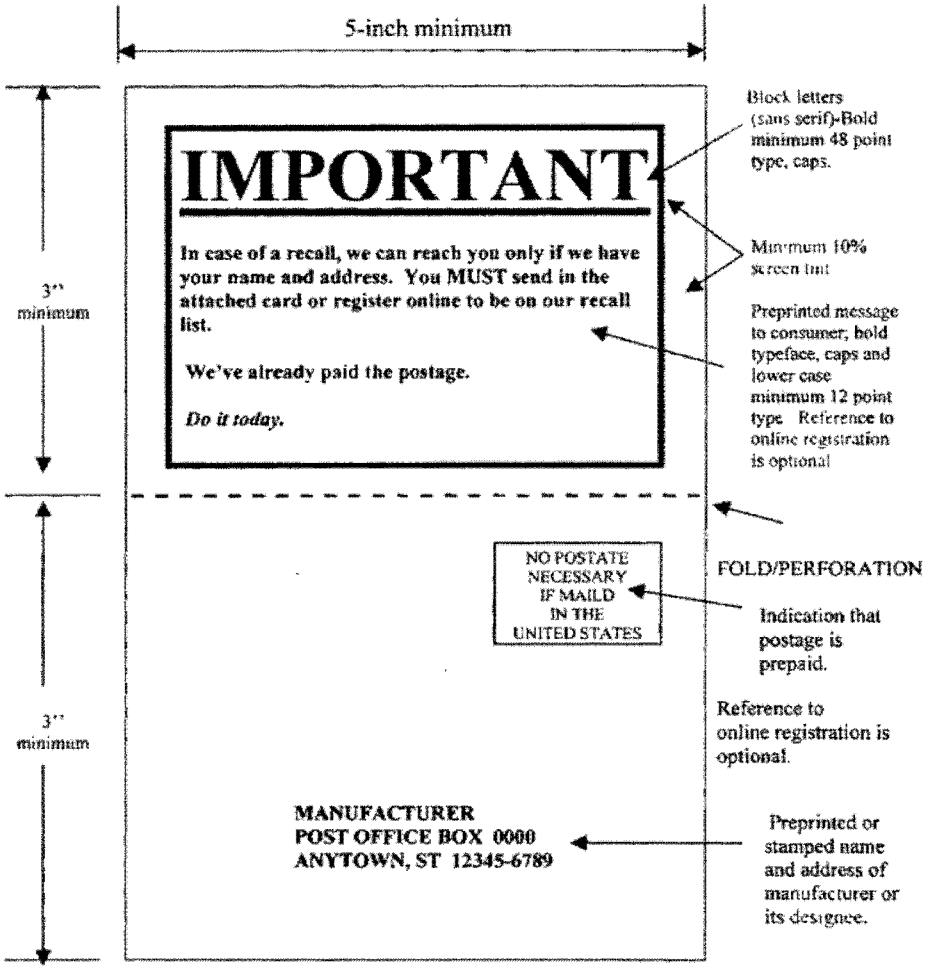

Figure 2 – Registration form for child restraint systems – address side

CHILD SAFETY SEAT REGISTRATION FORM
FOR YOUR CHILD'S CONTINUED SAFETY

Although child safety seats undergo testing and evaluation, it is possible that your child seat could be recalled. In case of a recall it is important that the manufacturer be able to contact you as soon as possible so that your seat can be corrected.

All child safety seats manufactured since March 1993 have a registration form so that owners can provide their names/addresses to the manufacturer. In case of a safety recall, the manufacturer can use that information to send recall letters to owners. Also, child safety seat manufacturers have agreed to maintain owner names/addresses for child safety seats manufactured before March 1993, so they can notify these consumers in the event of a future safety recall. However, in order for the manufacturer to know which child safety seat you own, all of the information on the lower half of this page must be provided.

If you would like the National Highway Traffic Safety Administration (NHTSA) to give your name and address to the manufacturer of your child safety seat, so that you can be notified of any future safety recalls regarding your child safety seat, fill out this form. Please type or print clearly, sign and mail this postage-paid, pre-addressed form.

If you have any questions, or need help with any child safety seat or motor vehicle safety issue, call the U.S. Department of Transportation's toll-free Vehicle Safety Hotline at 1-888-424-9393 (Washington DC AREA RESIDENTS, 202-366-0123).

Your Name:_____ Telephone_____

Your Street Address:_____

City:_____, State:_____ Zip Code:_____

IMPORTANT: The following information is essential and can be found on labels on your child seat.

Child Seat Manufacturer:_____

Child Seat Model Name & Number:_____

Child Seat Date of Manufacture:_____

I AUTHORIZE NHTSA TO PROVIDE A COPY OF THIS REPORT TO THE CHILD SAFETY SEAT MANUFACTURER.

SIGNATURE:_____ **DATE:**_____

Please mail to:
U.S. Department of Transportation
National Highway Traffic Safety Administration
DOT Vehicle Safety Hotline
400 7th Street, SW
Washington, DC 20590

The Privacy Act of 1974 - Public Law 93-579, As Amended: This information is requested pursuant to the authority vested in the National Highway Traffic Safety Act and subsequent amendments. You are under no obligation to respond to this questionnaire. Your response may be used to assist the NHTSA in determining whether a manufacturer should take appropriate action to correct a safety defect. If the NHTSA proceeds with administrative enforcement or litigation against a manufacturer, your response, or national company thereof, may be used in support of the agency's action.

Figure 3 – Illustration of a child restraint system registration form

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2018–10427 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Ford Motor Company

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of petition for exemption.

SUMMARY: This document grants in full the Ford Motor Company's (Ford) petition for an exemption of the Lincoln Nautilus vehicle line in accordance with *Exemption from Vehicle Theft Prevention Standard.* This petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the *Federal Motor Vehicle Theft Prevention*

Standard. (Theft Prevention Standard). Ford also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

DATES: The exemption granted by this notice is effective beginning with the 2019 model year (MY).

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, NRM–310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is 202–366–5222. Her fax number is 202–493–2990.

SUPPLEMENTARY INFORMATION: In a petition dated February 6, 2018, Ford requested an exemption from the parts-marking requirements of the Theft Prevention Standard for the Lincoln Nautilus vehicle line beginning with MY 2019. The petition requested exemption from parts-marking pursuant to 49 CFR part 543, *Exemption from Vehicle Theft Prevention Standard,* based on the installation of an antitheft device as standard equipment for the entire vehicle line.

Under 49 CFR part 543.5(a), a manufacturer may petition NHTSA to grant an exemption for one vehicle line per model year. In its petition, Ford provided a detailed description and diagram of the identity, design, and location of the components of the antitheft device for its Lincoln Nautilus vehicle line. Ford stated that the Lincoln Nautilus will be installed with its Intelligent Access with Push Button Start (IAwPB) system as standard equipment on the entire vehicle line. The IAwPB system is a passive, electronic engine immobilizer device that uses encrypted transponder technology. Key components of the IAwPB device will include an Intelligent Access electronic Push-Button Start key fob, keyless ignition system, radio transceiver module, body control module (BCM), powertrain control module (PCM) and a passive immobilizer. Ford further stated that its Lincoln Nautilus vehicle line will also be offered with a perimeter alarm system as standard equipment which will activate a visible and audible alarm whenever unauthorized access is attempted.

Ford stated that the device's integration of the transponder into the normal operation of the ignition key assures activation of the system. Ford also stated that its system is automatically activated when the ''StartStop'' button is pressed, shutting off the engine. Ford stated that the device is deactivated when a start sequence is completed and engine start is successful. Ford further stated that the vehicle engine can only be started when the key is present in the vehicle and the ''StartStop'' button inside the vehicle is pressed. Ford stated that when the ''StartStop'' button is pressed, the transceiver module will read a key code and transmit an encrypted message to the control module to determine key validity and engine start by sending a separate encrypted message to the BCM and the PCM. The powertrain will function only if the key code matches the unique identification key code previously programmed into the BCM. Ford stated that the two modules must be matched together in order for the vehicle to start. If the codes do not match, the powertrain engine will be inoperable. Ford further stated that any attempt to operate the vehicle without transmission of the correct code to the electronic control (*i.e.,* short circuiting the ''StartStop'' button) module will be ineffective.

Ford's submission is considered a complete petition as required by 49 CFR 543.7, in that it meets the general requirements contained in § 543.5 and the specific content requirements of § 543.6.

In addressing the specific content requirements of 543.6, Ford provided information on the reliability and durability of its proposed device. To ensure reliability and durability of the device, Ford conducted tests based on its own specified standards. Ford provided a detailed list of the tests conducted and believes that the device is reliable and durable since the device complied with its own specified requirements for each test.

Ford stated that incorporation of several features in the device further support the reliability and durability of the device. Specifically, some of those features include: Encrypted communication between the transponder, BCM control function and the PCM; virtually impossible key duplication; and shared security data between the body control module/remote function actuator and the powertrain control module. Additionally, Ford stated that its antitheft device has no moving parts (*i.e.,* BCM, PCM, and electrical components) to perform system functions which eliminate the possibility for physical damage or deterioration from normal use; and mechanically overriding the device to start the vehicle is also impossible.

Ford stated that its MY 2019 Lincoln Nautilus vehicle line will also be equipped with several other standard antitheft features common to Ford vehicles, (*i.e.,* hood release located inside the vehicle, counterfeit resistant VIN labels, secondary VINs, and cabin accessibility only with the use of a valid key fob).

Ford stated that it believes that the standard installation of its IAwPB device would be an effective deterrent against vehicle theft and compared its proposed device with other antitheft devices which NHTSA has determined to be as effective in reducing and deterring motor vehicle theft as would compliance with the parts-marking requirements.

Ford stated that the antitheft device was installed on all MY 1996 Ford Mustang GT and Cobra models as well as other selected models. Ford also stated that on its 1997 models, the installation of its antitheft device was extended to the entire Ford Mustang vehicle line as standard equipment and that according to the National Insurance Crime Bureau (NICB) theft statistics, MY 1997 Mustangs installed with the antitheft device showed a 70% reduction in theft rate compared to its MY 1995 Mustangs without an antitheft device.

Ford further stated that the proposed antitheft device is very similar to the system that was offered on its MY 2016 Lincoln MKX vehicle line. The Lincoln MKX vehicle line was granted a parts-marking exemption on November 25, 2014 by NHTSA (See 79 FR 70276) beginning with its MY 2016 vehicles. The agency notes that current theft rate data for the Lincoln MKX vehicle line for MYs 2012 through 2014 are 0.5841, 0.5724 and 0.5276 respectively.

Ford also reported that beginning with MY 2010, its antitheft device was installed as standard equipment on all of its North American Ford, Lincoln and Mercury vehicles but was offered as optional equipment on its 2010 F-series Super Duty pickups, Econoline and Transit Connect vehicles. Ford further stated that beginning with MY 2010, the IAwPB device was installed as standard equipment on its Lincoln MKT vehicles. In MY 2011, the device was offered as standard equipment on its Lincoln MKX vehicle line, and as an option on the Lincoln MKS, Ford Taurus, Edge, Explorer and Focus vehicles. Beginning with MY 2013, the device was offered as standard equipment on the Lincoln MKZ and optionally on the Ford Fusion, C-Max and Escape vehicles.

Ford referenced the agency's published theft rate data for the Lincoln MKX vehicles and stated that the Lincoln Nautilus will use the IAwPB device similar to the design and architecture of the Lincoln MKX. Ford

also stated that the Lincoln Nautilus is comparably similar to the Ford Escape in vehicle segment, size and equipment.

The agency agrees that the device is substantially similar to devices installed on other vehicle lines for which the agency has already granted exemptions.

Based on the supporting evidence submitted by Ford on the device, the agency believes that the antitheft device for the Lincoln Nautilus vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541).

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7 (b), the agency grants a petition for exemption from the parts-marking requirements of part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of part 541. The agency finds that Ford has provided adequate reasons for its belief that the antitheft device for the Lincoln Nautilus vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR part 541). This conclusion is based on the information Ford provided about its device.

The agency concludes that the device will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attracting attention to the efforts of unauthorized persons to enter or operate a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Ford's petition for exemption for the Lincoln Nautilus vehicle line from the parts-marking requirements of 49 CFR part 541. The agency notes that 49 CFR part 541, Appendix A–1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Ford decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Ford wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the antitheft device on which the line's exemption is based. Further, part 543.9(c)(2) provides for the submission of petitions ''to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption.''

The agency wishes to minimize the administrative burden that part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis.* Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of which might be characterized as *de minimis,* it should consult the agency before preparing and submitting a petition to modify.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.95 and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

[FR Doc. 2018–10429 Filed 5–15–18; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee: Change

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting: change.

SUMMARY: In the **Federal Register** notice that was originally published on May 4, 2018, the meeting date has changed. The correct date of the meeting is Thursday, May 31, 2018.

DATES: The meeting will be held Thursday, May 31, 2018.

FOR FURTHER INFORMATION CONTACT: Lisa Billups at 1–888–912–1227 or (214) 413–6523.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, May 31, 2018, at 1:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Lisa Billups at 1–888–912–1227 or (214) 413–6523, or write TAP Office 1114 Commerce Street, Dallas, TX 75242–1021, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: May 10, 2018.

Antoinette Ross,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2018–10481 Filed 5–15–18; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen

Dated: May 4, 2018.

Douglas Poms,

International Tax Counsel (Tax Policy).

[FR Doc. 2018–10373 Filed 5–15–18; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Survey of Foreign Ownership of U.S. Securities as of June 30, 2018

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice of reporting requirements.

SUMMARY: By this Notice and in accordance with the Code of Federal Regulations, the Department of the Treasury is informing the public that it is conducting a mandatory survey of foreign ownership of U.S. securities as of June 30, 2018. This mandatory survey is conducted under the authority of the International Investment and Trade in Services Survey Act. This Notice constitutes legal notification to all United States persons (defined below) who meet the reporting requirements set forth in this Notice that they must respond to, and comply with, this survey. Additional copies of the reporting forms SHLA (2018) and instructions may be printed from the internet at: *http://www.treasury.gov/resource-center/data-chart-center/tic/Pages/forms-sh.aspx.*

DATES: Data should be submitted to the Federal Reserve Bank of New York, acting as fiscal agent for the Department of the Treasury, by August 31, 2018.

ADDRESSES: Copies of the survey forms and instructions, which contain complete information on reporting procedures and definitions, may be obtained at the website address given above in the Summary, or by contacting the survey staff of the Federal Reserve Bank of New York at (212) 720–6300 or (646) 720–6300, email: *SHLA.help@ny.frb.org.* The mailing address is: Federal Reserve Bank of New York, Data and Statistics Function, 6th Floor, 33 Liberty Street, New York, NY 10045–0001.

FOR FURTHER INFORMATION CONTACT: Inquiries can also be made to the Federal Reserve Board of Governors, at (202) 452–3476, or to Dwight Wolkow, at (202) 622–1276, or by email: *comments2TIC@do.treas.gov.*

SUPPLEMENTARY INFORMATION:

Definition: A U.S. person is any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization (whether or not organized under the laws of any State), and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality thereof, including a government-sponsored agency), who resides in the United States or is subject to the jurisdiction of the United States.

Who Must Report: The panel for this survey is based primarily on the level of foreign resident holdings of U.S. securities reported on the June 2014 benchmark survey of foreign resident holdings of U.S. securities, and on the Aggregate Holdings of Long-Term Securities by U.S. and Foreign Residents (TIC SLT) report as of December 2017, and will consist mostly of the largest reporters. Entities required to report will be contacted individually by the Federal Reserve Bank of New York. Entities not contacted by the Federal Reserve Bank of New York have no reporting responsibilities.

What to Report: This report will collect information on foreign resident holdings of U.S. securities, including equities, short-term debt securities (including selected money market instruments), and long-term debt securities.

Paperwork Reduction Act Notice: This data collection has been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act and assigned control number 1505–0123. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. The estimated average annual burden associated with this collection of information is 486 hours per report for the largest custodians of securities, and 110 hours per report for the largest issuers of securities that have data to report and are not custodians. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Department of the Treasury, Office of International Affairs, Attention Administrator, International Portfolio Investment Data Reporting Systems, Room 5422, Washington, DC 20220, and to OMB, Attention Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Authority: 22 U.S.C. 3101 *et seq.,* and in accordance with 31 CFR 129.

Dwight Wolkow,

Administrator, International Portfolio Investment Data Reporting Systems.

[FR Doc. 2018–10459 Filed 5–15–18; 8:45 am]

BILLING CODE 4810–25–P

FEDERAL REGISTER

Vol. 83 Wednesday,

No. 95 May 16, 2018

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products Residual Risk and Technology Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2016–0678; FRL–9977–32–OAR]

RIN 2060–AT71

National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products Residual Risk and Technology Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Surface Coating of Wood Building Products to address the results of the residual risk and technology review (RTR) that the EPA is required to conduct under the Clean Air Act (CAA). We found risks due to emissions of air toxics to be acceptable from this source category and determined that the current NESHAP provides an ample margin of safety to protect public health. We identified no new cost-effective controls under the technology review to achieve further emissions reductions. The EPA is proposing: To add an alternative compliance demonstration equation; to amend provisions addressing periods of startup, shutdown and malfunction (SSM); to amend provisions regarding electronic reporting; and to make technical and editorial changes. The EPA is proposing these amendments to improve the effectiveness of the NESHAP. This action also proposes a new EPA test method to measure isocyanate compounds in certain surface coatings.

DATES: *Comments.* Comments must be received on or before June 15, 2018 unless a public hearing is requested by May 21, 2018. If a public hearing is requested, comments must be received on or before July 2, 2018. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before June 15, 2018.

Public Hearing. If a public hearing is requested by May 21, 2018, then we will hold a public hearing on May 31, 2018 at the location described in the **ADDRESSES** section. The last day to pre-register in advance to speak at the public hearing will be May 29, 2018.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2016–0678, 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 accepted. 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–2016–0678, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. 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. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, NC 27711, Attention EPA–HQ–OAR–2016–0678. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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://www.epa.gov/dockets/commenting-epa-dockets.*

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).

Public Hearing. If a public hearing is requested, it will be held at the EPA's Washington DC Campus located at 1201 Constitution Avenue, NW, Washington, DC. If a public hearing is requested, then we will provide details about the public hearing on our website at: *https://www.epa.gov/stationary-sources-air-pollution/surface-coating-wood-building-products-national-emission-standard-1.* The EPA does not intend to publish another document in the **Federal Register** announcing any updates on the request for a public hearing. Please contact Ms. Aimee St. Clair at (919) 541–1063 or by email at *stclair.aimee@epa.gov* to request a public hearing, to register to speak at the public hearing, or to inquire as to whether a public hearing will be held.

The EPA will make every effort to accommodate all speakers who arrive and register. If a hearing is held at a U.S. government facility, individuals planning to attend should be prepared to show a current, valid state- or federal-approved picture identification to the security staff in order to gain access to the meeting room. An expired form of identification will not be permitted. Please note that the Real ID Act, passed by Congress in 2005, established new requirements for entering federal facilities. If your driver's license is issued by a noncompliant state, you must present an additional form of identification to enter a federal facility. Acceptable alternative forms of identification include: Federal employee badge, passports, enhanced driver's licenses, and military identification cards. Additional information on the Real ID Act is available at *https://www.dhs.gov/real-id-frequently-asked-questions.* In addition, you will need to obtain a property pass for any personal belongings you bring with you. Upon leaving the building, you will be required to return this property pass to the security desk. No large signs will be allowed in the building, cameras may only be used outside of the building, and demonstrations will not be allowed on federal property for security reasons.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. John Bradfield, 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) 541–3062; fax number: (919) 541–0516; and email address: *bradfield.john@epa.gov.* For specific information regarding the risk modeling methodology, contact Mr. James Hirtz, 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) 541–0881; fax number: (919) 541–0840; and email address: *hirtz.james@epa.gov.* For information about the applicability of the NESHAP to a particular entity, contact Mr. John Cox, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA WJC South Building (Mail Code 2221A), 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: (202) 564–1395; and email address: *cox.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2016–0678. All documents in the docket are listed in the *Regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue NW, Washington, DC. 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 EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2016–0678. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/dockets.*

Preamble Acronyms and Abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AEGL acute exposure guideline level
AERMOD air dispersion model used by the HEM–3 model
ANSI American National Standards Institute
ASTM American Society for Testing and Materials
ATSDR Agency for Toxic Substances and Disease Registry
BACT best available control technology
CAA Clean Air Act
CalEPA California EPA
CAP criteria air pollutant
CBI Confidential Business Information
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CHIEF Clearinghouse for Inventories and Emissions Factors
CO catalytic oxidizers
ECHO Enforcement and Compliance History Online
EJ environmental justice
EPA Environmental Protection Agency
ERPG Emergency Response Planning Guideline
ERT Electronic Reporting Tool
GACT generally available control technology
HAP hazardous air pollutant(s)
HCl hydrochloric acid
HDI hex methylene 1,6 diisocyanate
HEM-3 Human Exposure Model, Version 1.1.0
HF hydrogen fluoride
HI hazard index
HQ hazard quotient
IBR incorporation by reference
ICR information collection request
IRIS Integrated Risk Information System
km kilometer
LAER lowest achievable emission rate
m^3 cubic meter
MACT maximum achievable control technology
MDI methylene diphenyl diisocyanate
MI methyl isocyanate
MIR maximum individual risk
NAAQS National Ambient Air Quality Standards
NAICS North American Industry Classification System
NAS National Academy of Sciences
NEI National Emissions Inventory
NESHAP national emission standards for hazardous air pollutants
No. Number
NRDC Natural Resources Defense Council
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PB-HAP hazardous air pollutants known to be persistent and bio-accumulative in the environment
PDF portable document format
PRA Paperwork Reduction Act
QA quality assurance
QC quality control
RACT reasonably available control technology
RBLC RACT/BACT/LAER Clearinghouse
REL reference exposure level
RFA Regulatory Flexibility Act
RfC reference concentration
RfD reference dose
RTR residual risk and technology review
SAB Science Advisory Board
SSM startup, shutdown, and malfunction
TDI 2,4 toluene diisocyanate
TO thermal oxidizers
TOSHI target organ-specific hazard index
tpy tons per year
TRI Toxics Release Inventory
UF uncertainty factor
UMRA Unfunded Mandates Reform Act
URE unit risk estimate
U.S. United States
U.S.C. United States Code
VCS voluntary consensus standards
VOC volatile organic compounds
VOHAP volatile organic hazardous air pollutants
WebFIRE Web Factor Information Retrieval System
XML extensible markup language

Organization of this Document. The information in this preamble is organized as follows:

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

I. General Information

A. Does this action apply to me?

Table 1 of this preamble lists the NESHAP and associated regulated industrial source category that is the subject of this proposal. Table 1 is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local and tribal government entities would not be affected by this proposed action. As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992), the ''Surface Coating of Wood Building Products'' source category is any facility engaged in the surface coating of wood building products. Wood building products are defined as any product that contains more than 50 percent by weight wood or wood fiber, excluding the weight of glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building. This NESHAP, 40 Code of Federal regulations (CFR) part 63, subpart QQQQ, regulates all operations associated with the surface coating of wood building products, which includes preparation of the coating for application (*e.g.,* mixing with thinners); surface preparation of the wood building products; coating application, curing, and drying equipment; equipment cleaning; and storage, transfer, and handling of coatings, thinners, cleaning materials, and waste materials.

TABLE 1—NESHAP AND INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS PROPOSED ACTION

Source category	NESHAP	NAICS code [1]
Wood Building Products	Surface Coating of Wood Building Products	321211, 321212, 321218, 321219, 321911, 321999.

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at: *https://www.epa.gov/stationary-sources-air-pollution/surface-coating-wood-building-products-national-emission-standard-1.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website. Information on the overall RTR program is available at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

A redline version of the regulatory language that incorporates the proposed changes in this action is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2016–0678).

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit information containing CBI to the EPA through *http://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI only to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2016–0678.

II. Background

A. What is the statutory authority for this action?

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of hazardous air pollutants (HAP) from stationary sources. Generally, the first stage involves establishing technology-based standards

and the second stage involves evaluating those standards that are based on maximum achievable control technology (MACT) to determine whether additional standards are needed to further address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years to determine if there are ''developments in practices, processes, or control technologies'' that may be appropriate to incorporate into the standards. This review is commonly referred to as the ''technology review.'' When the two reviews are combined into a single rulemaking, it is commonly referred to as the ''risk and technology review.'' The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements. A more comprehensive discussion appears in the document titled *CAA Section 112 Risk and Technology Reviews: Statutory Authority and Methodology* in the docket for this rulemaking.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and non-air quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' The EPA must also consider control options that are more stringent than the floor. Standards more stringent than the floor are commonly referred to as beyond-the-floor standards. In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards where it is not feasible to prescribe or enforce a numerical emission standard. For area sources, CAA section 112(d)(5) gives the EPA discretion to set standards based on generally available control technologies or management practices (GACT standards) in lieu of MACT standards.

The second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk according to CAA section 112(f). Section 112(f)(2) of the CAA requires the EPA to determine for source categories subject to MACT standards whether promulgation of additional standards is needed to provide an ample margin of safety to protect public health or to prevent an adverse environmental effect. CAA section 112(d)(5) provides that this residual risk review is not required for categories of area sources subject to GACT standards. Section 112(f)(2)(B) of the CAA further expressly preserves the EPA's use of the two-step approach for developing standards to address any residual risk and the Agency's interpretation of ''ample margin of safety'' developed in the *National Emissions Standards for Hazardous Air Pollutants: Benzene Emissions from Maleic Anhydride Plants, Ethylbenzene/Styrene Plants, Benzene Storage Vessels, Benzene Equipment Leaks, and Coke By-Product Recovery Plants* (Benzene NESHAP) (54 FR 38044, September 14, 1989). The EPA notified Congress in the Risk Report that the Agency intended to use the Benzene NESHAP approach in making CAA section 112(f) residual risk determinations (EPA–453/R–99–001, p. ES–11). The EPA subsequently adopted this approach in its residual risk determinations, and the United States Court of Appeals for the District of Columbia Circuit (the Court) upheld the EPA's interpretation that CAA section 112(f)(2) incorporates the approach established in the Benzene NESHAP. See *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1083 (D.C. Cir. 2008).

The approach incorporated into the CAA and used by the EPA to evaluate residual risk and to develop standards under CAA section 112(f)(2) is a two-step approach. In the first step, the EPA determines whether risks are acceptable. This determination ''considers all health information, including risk estimation uncertainty, and includes a presumptive limit on maximum individual lifetime [cancer] risk (MIR) [1] of approximately [1-in-10 thousand] [*i.e.,* 100-in-1 million].'' 54 FR 38045, September 14, 1989. If risks are unacceptable, the EPA must determine the emissions standards necessary to bring risks to an acceptable level without considering costs. In the second step of the process, the EPA considers whether the emissions standards provide an ample margin of safety ''in consideration of all health information, including the number of persons at risk levels higher than approximately 1-in-1 million, as well as other relevant factors, including costs and economic impacts, technological feasibility, and other factors relevant to each particular decision.'' *Id.* The EPA must promulgate emission standards necessary to provide an ample margin of safety to protect public health. After conducting the ample margin of safety analysis, we consider whether a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect.

CAA section 112(d)(6) separately requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less frequently than every 8 years. In conducting this review, which we call the ''technology review,'' the EPA is not required to recalculate the MACT floor. *NRDC* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008); *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6).

B. What is this source category and how does the current NESHAP regulate its HAP emissions?

The ''Surface Coating of Wood Building Products'' source category includes any facility engaged in the surface coating of wood building products, which means the application of coatings using, for example, roll coaters or curtain coaters in the finishing or laminating of any wood building product that contains more than 50 percent by weight wood or wood fiber, excluding the weight of any glass components, and is used in the construction, either interior or exterior, of a residential, commercial, or institutional building. Regulated operations include all processes and process units incorporating wood building products surface coating operations. The processes include, but are not limited to, coating application production lines, emissions capture and exhaust ducting systems, cleanup stations, coating preparation stations

[1] Although defined as ''maximum individual risk,'' MIR refers only to cancer risk. MIR, one metric for assessing cancer risk, is the estimated risk if an individual were exposed to the maximum level of a pollutant for a lifetime.

(*e.g.,* mixing with thinners), surface preparation of the wood building products, curing and drying equipment; and storage, transfer, and handling of coatings, thinners, cleaning materials, and waste materials. This NESHAP, 40 CFR part 63, subpart QQQQ, regulates surface coating of wood building products (referred to in this document as the Surface Coating of Wood Building Products NESHAP).

This proposal includes both a residual risk assessment and a technology review of the emission sources subject to the Surface Coating of Wood Building Products NESHAP, which includes numerical emission limits for five subcategories of wood building products:

- Exterior siding and primed doorskins;
- Flooring;
- Interior wall paneling or tileboard;
- Other interior panels; and
- Doors, windows, and miscellaneous.

C. What data collection activities were conducted to support this action?

The EPA collected data from several environmental databases that included information pertaining to wood building products manufacturing facilities with surface coating operations in the United States. The primary databases were the Enforcement and Compliance History Online (ECHO) database, the Toxics Release Inventory (TRI), and the National Emissions Inventory (NEI) for 2011 and 2014. Title V operating permits were obtained from states that have facilities subject to 40 CFR part 63, subpart QQQQ. For more details of the title V operating permit review, see the memorandum titled *Preparation of the Residual Risk Modeling Input File for Subpart QQQQ* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2016–0678). No formal information collection request was performed.

D. What other relevant background information and data are available?

In addition to the ECHO, TRI, and NEI databases, the EPA reviewed the additional information sources listed below and consulted with stakeholders regulated under the Surface Coating of Wood Building Products NESHAP to determine if there have been developments in practices, processes, or control technologies by wood building products surface coating sources. These include:

- Permit limits and selected compliance options from permits collected from state agencies;
- Information on air pollution control options in the wood building products surface coating industry from the reasonably available control technology (RACT)/best achievable control technology (BACT)/lowest achievable emission limits (LAER) Clearinghouse (RBLC);
- Information on the most effective ways to control emissions of volatile organic compounds (VOC) and volatile organic HAP (VOHAP) from sources in various industries, including the wood building products manufacturing industry;
- Product Data Sheets and Material Safety Data Sheets submitted with compliance demonstrations; and
- Communication with trade groups and associations representing industries in the affected NAICS categories and their members.

III. Analytical Procedures

In this section, we describe the analyses performed to support the proposed decisions for the RTR and other issues addressed in this proposal.

A. How do we consider risk in our decision-making?

As discussed in section II.A of this preamble and in the Benzene NESHAP, in evaluating and developing standards under CAA section 112(f)(2), we apply a two-step approach to determine whether or not risks are acceptable and to determine if the standards provide an ample margin of safety to protect public health. As explained in the Benzene NESHAP, ''the first step judgment on acceptability cannot be reduced to any single factor'' and, thus, ''[t]he Administrator believes that the acceptability of risk under section 112 is best judged on the basis of a broad set of health risk measures and information.'' 54 FR 38046, September 14, 1989. Similarly, with regard to the ample margin of safety determination, ''the Agency again considers all of the health risk and other health information considered in the first step. Beyond that information, additional factors relating to the appropriate level of control will also be considered, including cost and economic impacts of controls, technological feasibility, uncertainties, and any other relevant factors.'' *Id.*

The Benzene NESHAP approach provides flexibility regarding factors the EPA may consider in making determinations and how the EPA may weigh those factors for each source category. The EPA conducts a risk assessment that provides estimates of the MIR posed by the HAP emissions from each source in the source category, the hazard index (HI) for chronic exposures to HAP with the potential to cause noncancer health effects, and the hazard quotient (HQ) for acute exposures to HAP with the potential to cause noncancer health effects.[2] The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects. The scope of the EPA's risk analysis is consistent with the EPA's response to comment on our policy under the Benzene NESHAP where the EPA explained that:

> ''[t]he policy chosen by the Administrator permits consideration of multiple measures of health risk. Not only can the MIR figure be considered, but also incidence, the presence of noncancer health effects, and the uncertainties of the risk estimates. In this way, the effect on the most exposed individuals can be reviewed as well as the impact on the general public. These factors can then be weighed in each individual case. This approach complies with the *Vinyl Chloride* mandate that the Administrator ascertain an acceptable level of risk to the public by employing his expertise to assess available data. It also complies with the Congressional intent behind the CAA, which did not exclude the use of any particular measure of public health risk from the EPA's consideration with respect to CAA section 112 regulations, and thereby implicitly permits consideration of any and all measures of health risk which the Administrator, in his judgment, believes are appropriate to determining what will 'protect the public health'.''

See 54 FR 38057, September 14, 1989. Thus, the level of the MIR is only one factor to be weighed in determining acceptability of risks. The Benzene NESHAP explained that ''an MIR of approximately one in 10 thousand should ordinarily be the upper end of the range of acceptability. As risks increase above this benchmark, they become presumptively less acceptable under CAA section 112, and would be weighed with the other health risk measures and information in making an overall judgment on acceptability. Or, the Agency may find, in a particular case, that a risk that includes MIR less than the presumptively acceptable level is unacceptable in the light of other health risk factors.'' *Id.* at 38045. Similarly, with regard to the ample margin of safety analysis, the EPA stated in the Benzene NESHAP that: ''EPA believes the relative weight of the many

[2] The MIR is defined as the cancer risk associated with a lifetime of exposure at the highest concentration of HAP where people are likely to live. The HQ is the ratio of the potential exposure to the HAP to the level at or below which no adverse chronic noncancer effects are expected; the HI is the sum of HQs for HAP that affect the same target organ or organ system.

factors that can be considered in selecting an ample margin of safety can only be determined for each specific source category. This occurs mainly because technological and economic factors (along with the health-related factors) vary from source category to source category.'' *Id.* at 38061. We also consider the uncertainties associated with the various risk analyses, as discussed earlier in this preamble, in our determinations of acceptability and ample margin of safety.

The EPA notes that it has not considered certain health information to date in making residual risk determinations. At this time, we do not attempt to quantify those HAP risks that may be associated with emissions from other facilities that do not include the source category under review, mobile source emissions, natural source emissions, persistent environmental pollution, or atmospheric transformation in the vicinity of the sources in the category.

The EPA understands the potential importance of considering an individual's total exposure to HAP in addition to considering exposure to HAP emissions from the source category and facility. We recognize that such consideration may be particularly important when assessing noncancer risks, where pollutant-specific exposure health reference levels (*e.g.,* reference concentrations (RfCs)) are based on the assumption that thresholds exist for adverse health effects. For example, the EPA recognizes that, although exposures attributable to emissions from a source category or facility alone may not indicate the potential for increased risk of adverse noncancer health effects in a population, the exposures resulting from emissions from the facility in combination with emissions from all of the other sources (*e.g.,* other facilities) to which an individual is exposed may be sufficient to result in increased risk of adverse noncancer health effects. In May 2010, the Science Advisory Board (SAB) advised the EPA ''that RTR assessments will be most useful to decision makers and communities if results are presented in the broader context of aggregate and cumulative risks, including background concentrations and contributions from other sources in the area.'' [3]

In response to the SAB recommendations, the EPA is incorporating cumulative risk analyses into its RTR risk assessments, including those reflected in this proposal. The Agency is (1) conducting facility-wide assessments, which include source category emission points, as well as other emission points within the facilities; (2) combining exposures from multiple sources in the same category that could affect the same individuals; and (3) for some persistent and bioaccumulative pollutants, analyzing the ingestion route of exposure. In addition, the RTR risk assessments have always considered aggregate cancer risk from all carcinogens and aggregate noncancer HI from all noncarcinogens affecting the same target organ system.

Although we are interested in placing source category and facility-wide HAP risks in the context of total HAP risks from all sources combined in the vicinity of each source, we are concerned about the uncertainties of doing so. Because of the contribution to total HAP risk from emission sources other than those that we have studied in depth during this RTR review, such estimates of total HAP risks would have significantly greater associated uncertainties than the source category or facility-wide estimates. Such aggregate or cumulative assessments would compound those uncertainties, making the assessments too unreliable.

B. How do we perform the technology review?

Our technology review focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the MACT standards were promulgated. Where we identify such developments, in order to inform our decision of whether it is ''necessary'' to revise the emissions standards, we analyze the technical feasibility of applying these developments and the estimated costs, energy implications, and non-air environmental impacts, and we also consider the emission reductions. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources.

For this exercise, we consider any of the following to be a ''development'':

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed (or last updated) the NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. Among the sources we reviewed were the NESHAP for various industries that were promulgated since the MACT standards being reviewed in this action. We reviewed the regulatory requirements and/or technical analyses associated with these regulatory actions to identify any practices, processes, and control technologies considered in these efforts that could be applied to emission sources in the Surface Coating of Wood Building Products source category, as well as the costs, non-air impacts, and energy implications associated with the use of these technologies. Finally, we reviewed information from other sources, such as state and/or local permitting agency databases and industry-supported databases.

C. How did we estimate post-MACT risks posed by the source category?

The EPA conducted a risk assessment that provides estimates of the MIR for cancer posed by the HAP emissions from each source in the source category, the HI for chronic exposures to HAP with the potential to cause noncancer health effects, and the HQ for acute exposures to HAP with the potential to cause noncancer health effects. The assessment also provides estimates of the distribution of cancer risks within the exposed populations, cancer incidence, and an evaluation of the potential for adverse environmental effects. The seven sections that follow this paragraph describe how we estimated emissions and conducted the risk assessment. The docket for this rulemaking contains the following document which provides more information on the risk assessment

[3] The EPA's responses to this and all other key recommendations of the SAB's advisory on RTR risk assessment methodologies (which is available at: *http://yosemite.epa.gov/sab/sabproduct.nsf/4AB3966E263D943A8525771F00668381/$File/EPA-SAB-10-007-unsigned.pdf*) are outlined in a memorandum to this rulemaking docket from David Guinnup titled, *EPA's Actions in Response to the Key Recommendations of the SAB Review of RTR Risk Assessment Methodologies.*

inputs and models: *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule.* The methods used to assess risks (as described in the seven primary steps below) are consistent with those peer-reviewed by a panel of the SAB in 2009 and described in their peer review report issued in 2010;[4] they are also consistent with the key recommendations contained in that report.

1. How did we estimate actual emissions and identify the emissions release characteristics?

Data were extracted from the ECHO database to determine which facilities were potentially subject to the Surface Coating of Wood Building Products NESHAP to develop a facility list. The ECHO database provides integrated compliance and enforcement information for about 800,000 regulated facilities nationwide and it allows for the search of information on permit data, inspection dates and findings, violations, and enforcement actions. For more details on ECHO, see *https://echo.epa.gov/resources/general-info/learn-more-about-echo.* The ECHO database identified 135 facilities as potentially subject to the Surface Coating of Wood Building Products NESHAP. Further review of the permits for these facilities found that 64 facilities have surface coating of wood building products operations, and 55 of those facilities are subject to the requirements of 40 CFR part 63, subpart QQQQ. We are interested in your comments on the development of the facility list used in our analysis. For more details on the facility list development, see the memorandum titled *Preparation of the Residual Risk Modeling Input File for Subpart QQQQ* in the docket for this rulemaking (Docket ID No. EPA–HQ–OAR–2016–0678).

As discussed in section II.C of this preamble, we used data from facility permits, the 2014 NEI (version 1), and the TRI as the basis for the emissions used in the risk assessment for the Surface Coating of Wood Building Products source category. The NEI is a database that contains information about sources that emit criteria air pollutants (CAP), CAP precursors, and HAP. The NEI is released every 3 years based primarily on data provided by state, local, and tribal air agencies for sources in their jurisdictions and supplemented with data developed by the EPA. The NEI database includes estimates of actual annual air pollutant emissions from point and fugitive sources and emission release characteristic data, such as emission release height, temperature, diameter, velocity, and flow rates. The NEI database also includes locational latitude/longitude coordinates. For more details on the NEI, see *https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei.* The TRI tracks the management of certain toxic chemicals that may pose a threat to human health and the environment through annual facility reporting of how much of each chemical is released into the environment. For more details on the TRI, see *https://www.epa.gov/toxics-release-inventory-tri-program/learn-about-toxics-release-inventory.*

We began compiling an initial draft residual risk modeling input file for use in the Surface Coating of Wood Building Products NESHAP residual risk review in 2016.[5] We made further updates to the source category facility list to account for facilities that recently closed or reopened, added new products covered by the Surface Coating of Wood Building Products NESHAP, and/or changed their surface coating equipment or application techniques.

We estimated actual emissions based on the 2014 NEI, preferentially, and subsequent site-specific inventory revisions provided by states or individual facilities. Where 2014 NEI data were not available for a facility, we used data from the 2011 NEI and then the 2014 TRI. Using this combination of EPA databases, we collected emissions information on the 55 sources in the category. We identified nine facilities that reported zero HAP emissions for the Surface Coating of Wood Building Products source category, and they were excluded from the risk modeling file. As a result, the risk modeling file characterized the impact of emissions from 46 sources.[6]

The total HAP emissions for the source category, which were included in the modeling file, are approximately 260 tpy. Based on the available data, the HAP emitted in the largest quantities are methanol, toluene, xylenes, ethyl benzene, methyl isobutyl ketone, glycol ethers, vinyl acetate, ethylene glycol, methyl methacrylate, formaldehyde, and dimethyl phthalate. Other than lead, persistent and bioaccumulative HAP (PB–HAP) were not reported as being emitted from this source category. Therefore, the only assessment of multipathway risk was for lead, and that assessment compared the ambient air lead concentrations to the lead National Ambient Air Quality Standard (NAAQS). Further information about the multipathway analysis performed for this category follows in section III.C.3.d.

2. How did we estimate MACT-allowable emissions?

The available emissions data in the RTR emissions dataset include estimates of the mass of HAP emitted during a specified annual time period. These ''actual'' emission levels are often lower than the emission levels allowed under the requirements of the current MACT standards. The emissions level allowed to be emitted under the MACT standards is referred to as the ''MACT-allowable'' emissions level. We discussed the use of both MACT-allowable and actual emissions in the final Coke Oven Batteries RTR (70 FR 19998–19999, April 15, 2005) and in the proposed and final Hazardous Organic NESHAP RTRs (71 FR 34428, June 14, 2006, and 71 FR 76609, December 21, 2006, respectively). In those actions, we noted that assessing the risks at the MACT-allowable level is inherently reasonable since these risks reflect the maximum level facilities could emit and still comply with national emission standards. We also explained that it is reasonable to consider actual emissions, where such data are available, in both steps of the risk analysis, in accordance with the Benzene NESHAP approach. (54 FR 38044, September 14, 1989.)

Actual emissions are often lower than MACT-allowable emissions due to compliance margins, more stringent state or local rules, or over-control due to use of control technologies, equipment, or work practices that are significantly better than required to meet the NESHAP limits. However, over 90 percent of wood building products manufacturers use compliant coatings with low- or no-HAP emissions and production rate limits. We assume that coatings in the category are engineered to meet the standard with a reasonable compliance margin. For those operations, we would expect actual emissions to equal MACT-allowable emissions, because of the use of the compliant coatings and/or low-HAP coatings. Additionally, for new sources,

[4] U.S. EPA SAB. *Risk and Technology Review (RTR) Risk Assessment Methodologies: For Review by the EPA's Science Advisory Board with Case Studies—MACT I Petroleum Refining Sources and Portland Cement Manufacturing,* May 2010.

[5] For more information, see the memorandum in the docket titled *Preparation of Residual Risk Modeling Input File for Subpart QQQQ.* The memorandum describes the source of the inventory data, discusses quality assurance of the 40 CFR part 63, subpart QQQQ data, provides actual versus allowable and acute risk multipliers for subpart QQQQ sources, and identifies potential outliers and suspect data for further review.

[6] *Id.*

three of five new source limits in the NESHAP are zero-HAP limits, and, as a result, we assumed that the reported actual emissions were equal to the MACT-allowable emissions for these sources since the MACT-allowable emissions are zero. For facilities using an add-on control, the operating permits indicate that the coating lines may not operate without controls. Therefore, we assumed that MACT-allowable emissions were equal to actual emissions. We are requesting comment on the assumption that actual and MACT-allowable emissions are the same for this source category.

3. How did we conduct dispersion modeling, determine inhalation exposures, and estimate individual and population inhalation risks?

Both long-term and short-term inhalation exposure concentrations and health risks from the source category addressed in this proposal were estimated using the Human Exposure Model (HEM–3). The HEM–3 performs three primary risk assessment activities: (1) Conducting dispersion modeling to estimate the concentrations of HAP in ambient air, (2) estimating long-term and short-term inhalation exposures to individuals residing within 50 kilometers (km) of the modeled sources, and (3) estimating individual and population-level inhalation risks using the exposure estimates and quantitative dose-response information.

a. Dispersion Modeling

The air dispersion model AERMOD, used by the HEM–3 model, is one of the EPA's preferred models for assessing air pollutant concentrations from industrial facilities.[7] To perform the dispersion modeling and to develop the preliminary risk estimates, HEM–3 draws on three data libraries. The first is a library of meteorological data, which is used for dispersion calculations. This library includes 1 year (2016) of hourly surface and upper air observations from 824 meteorological stations selected to provide coverage of the United States and Puerto Rico. A second library of United States Census Bureau census block[8] internal point locations and populations provides the basis of human exposure calculations (U.S. Census, 2010). In addition, for each census block, the census library includes the elevation and controlling hill height, which are also used in dispersion calculations. A third library of pollutant-specific dose-response values is used to estimate health risks. These dose-response values are the latest values recommended by the EPA for HAP. They are available at *https://www.epa.gov/fera/dose-response-assessment-assessing-health-risks-associated-exposure-hazardous-air-pollutants* and are discussed in more detail later in this section.

b. Risk From Chronic Exposure to HAP That May Cause Cancer

In developing the risk assessment for chronic exposures, we used the estimated annual average ambient air concentrations of each HAP emitted by each source for which we have emissions data in the source category. The air concentrations at each nearby census block centroid were used as a surrogate for the chronic inhalation exposure concentration for all the people who reside in that census block. We calculated the MIR for each facility as the cancer risk associated with a continuous lifetime (24 hours per day, 7 days per week, 52 weeks per year, for a 70-year period) exposure to the maximum concentration at the centroid of inhabited census blocks. Individual cancer risks were calculated by multiplying the estimated lifetime exposure to the ambient concentration of each HAP (in micrograms per cubic meter ($\mu g/m^3$)) by its unit risk estimate (URE). The URE is an upper bound estimate of an individual's probability of contracting cancer over a lifetime of exposure to a concentration of 1 microgram of the pollutant per cubic meter of air. For residual risk assessments, we generally use UREs from the EPA's Integrated Risk Information System (IRIS). For carcinogenic pollutants without IRIS values, we look to other reputable sources of cancer dose-response values, often using California EPA (CalEPA) UREs, where available. In cases where new, scientifically credible dose-response values have been developed in a manner consistent with the EPA guidelines and have undergone a peer review process similar to that used by the EPA, we may use such dose-response values in place of, or in addition to, other values, if appropriate.

To estimate incremental individual lifetime cancer risks associated with emissions from the facilities in the source category, the EPA summed the risks for each of the carcinogenic HAP[9] emitted by the modeled sources. Cancer incidence and the distribution of individual cancer risks for the population within 50 km of the sources were also estimated for the source category by summing individual risks. A distance of 50 km is consistent with both the analysis supporting the 1989 Benzene NESHAP (54 FR 38044, September 14, 1989) and the limitations of Gaussian dispersion models, including AERMOD.

c. Risk From Chronic Exposure to HAP That May Cause Health Effects Other Than Cancer

To assess the risk of noncancer health effects from chronic exposure to HAP, we calculate either an HQ or a target organ-specific hazard index (TOSHI). We calculate an HQ when a single noncancer HAP is emitted. Where more than one noncancer HAP is emitted, we sum the HQ for each of the HAP that affects a common target organ system to obtain a TOSHI. The HQ is the estimated exposure divided by the chronic noncancer dose-response value, which is a value selected from one of several sources. The preferred chronic noncancer dose-response value is the EPA RfC (*https://iaspub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&vocabName=IRIS%20Glossary*), defined as ''an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.'' In cases where an RfC from the EPA's IRIS database is not available or where the EPA determines that using a value other than the RfC is appropriate, the chronic noncancer dose-response value can be a value from the following prioritized sources, which

[7] U.S. EPA. Revision to the *Guideline on Air Quality Models: Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions* (70 FR 68218, November 9, 2005).

[8] A census block is the smallest geographic area for which census statistics are tabulated.

[9] The EPA classifies carcinogens as: carcinogenic to humans, likely to be carcinogenic to humans, and suggestive evidence of carcinogenic potential. These classifications also coincide with the terms ''known carcinogen, probable carcinogen, and possible carcinogen,'' respectively, which are the terms advocated in the EPA's *Guidelines for Carcinogen Risk Assessment,* published in 1986 (51 FR 33992, September 24, 1986). In August 2000, the document, *Supplemental Guidance for Conducting Health Risk Assessment of Chemical Mixtures* (EPA/630/R–00/002), was published as a supplement to the 1986 document. Copies of both documents can be obtained from *https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=20533&CFID=70315376&CFTOKEN=71597944.* Summing the risks of these individual compounds to obtain the cumulative cancer risks is an approach that was recommended by the EPA's SAB in their 2002 peer review of the EPA's National Air Toxics Assessment (NATA) titled *NATA—Evaluating the National-scale Air Toxics Assessment 1996 Data—an SAB Advisory,* available at *http://yosemite.epa.gov/sab/sabproduct.nsf/214C6E915BB04E14852570CA007A682C/$File/ecadv02001.pdf.*

define their dose-response values similarly to the EPA: (1) The Agency for Toxic Substances and Disease Registry (ATSDR) Minimum Risk Level (*http://www.atsdr.cdc.gov/mrls/index.asp*); (2) the CalEPA Chronic Reference Exposure Level (REL) (*http://oehha.ca.gov/air/crnr/notice-adoption-air-toxics-hot-spots-program-guidance-manual-preparation-health-risk-0*); or (3), as noted above, a scientifically credible dose-response value that has been developed in a manner consistent with the EPA guidelines and has undergone a peer review process similar to that used by the EPA.

d. Risk From Acute Exposure to HAP That May Cause Health Effects Other Than Cancer

For each HAP for which appropriate acute inhalation dose-response values are available, the EPA also assesses the potential health risks due to acute exposure. For these assessments, in order to avoid under-estimating effects, the EPA makes conservative assumptions about emission rates, meteorology, and exposure location. We use the peak hourly emission rate,[10] worst-case dispersion conditions, and, in accordance with our mandate under section 112 of the CAA, the point of highest off-site exposure to assess the potential risk to the maximally exposed individual.

To characterize the potential health risks associated with estimated acute inhalation exposures to a HAP, we generally use multiple acute dose-response values, including acute RELs, acute exposure guideline levels (AEGLs), and emergency response planning guidelines (ERPG) for 1-hour exposure durations), if available, to calculate acute HQs. The acute HQ is calculated by dividing the estimated acute exposure by the acute dose-response value. For each HAP for which acute dose-response values are available, the EPA calculates acute HQs.

An acute REL is defined as ''the concentration level at or below which no adverse health effects are anticipated for a specified exposure duration.'' [11] Acute RELs are based on the most sensitive, relevant, adverse health effect reported in the peer-reviewed medical and toxicological literature. They are designed to protect the most sensitive individuals in the population through the inclusion of margins of safety. Because margins of safety are incorporated to address data gaps and uncertainties, exceeding the REL does not automatically indicate an adverse health impact. AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposures ranging from 10 minutes to 8 hours.[12] They are guideline levels for ''once-in-a-lifetime, short-term exposures to airborne concentrations of acutely toxic, high-priority chemicals.'' *Id.* at 21. The AEGL–1 is specifically defined as ''the airborne concentration (expressed as ppm (parts per million) or mg/m^3 (milligrams per cubic meter)) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic nonsensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.'' Airborne concentrations below AEGL–1 represent exposure levels that can produce mild and progressively increasing but transient and nondisabling odor, taste, and sensory irritation or certain asymptomatic, nonsensory effects.'' *Id.* AEGL–2 are defined as ''the airborne concentration (expressed as parts per million or milligrams per cubic meter) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects or an impaired ability to escape.'' *Id.*

ERPGs are developed for emergency planning and are intended as health-based guideline concentrations for single exposures to chemicals.'' [13] *Id.* at 1. The ERPG–1 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to 1 hour without experiencing other than mild transient adverse health effects or without perceiving a clearly defined, objectionable odor.'' *Id.* at 2. Similarly, the ERPG–2 is defined as ''the maximum airborne concentration below which it is believed that nearly all individuals could be exposed for up to one hour without experiencing or developing irreversible or other serious health effects or symptoms which could impair an individual's ability to take protective action.'' *Id.* at 1.

An acute REL for 1-hour exposure durations is typically lower than its corresponding AEGL–1 and ERPG–1. Even though their definitions are slightly different, AEGL–1s are often the same as the corresponding ERPG–1s, and AEGL–2s are often equal to ERPG–2s. The maximum HQs from our acute inhalation screening risk assessment typically result when we use the acute REL for a HAP. In cases where the maximum acute HQ exceeds 1, we also report the HQ based on the next highest acute dose-response value (usually the AEGL–1 and/or the ERPG–1).

For this source category, we did not have short-term emissions data; therefore, we estimated the peak, short-term emissions using available annual emissions data from the NEI. We assumed that the peak, 1-hour emission rate could exceed a facility's annual average hourly emission rate by as much as a factor of 10, under worst-case meteorological conditions. For facilities that used compliant coatings, the default acute multiplier of 10 is overly conservative because compliant coatings result in an emissions profile that is not expected to have significant fluctuations in HAP emissions. Further review of permits found that two facilities utilizing the compliant coating approach only operate coating operations for one 8-hour shift per day, therefore, an acute multiplier of 3 was used. The default multiplier of 10 was applied to all other facilities. A further discussion of why these factors were chosen can be found in the memorandum, *Preparation of the Residual Risk Modeling Input File for*

[10] In the absence of hourly emission data, we develop estimates of maximum hourly emission rates by multiplying the average actual annual emissions rates by a default factor (usually 10) to account for variability. This is documented in *Residual Risk Assessment for Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule, September, 2017 Risk and Technology Review Proposed Rule* and in Appendix 5 of the report: *Analysis of Data on Short-term Emission Rates Relative to Long-term Emission Rates.* Both are available in the docket for this rulemaking.

[11] CalEPA issues acute RELs as part of its Air Toxics Hot Spots Program, and the 1-hour and 8-hour values are documented in *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part I, The Determination of Acute Reference Exposure Levels for Airborne Toxicants,* which is available at *http://oehha.ca.gov/air/general-info/oehha-acute-8-hour-and-chronic-reference-exposure-level-rel-summary.*

[12] National Academy of Sciences, 2001. *Standing Operating Procedures for Developing Acute Exposure Levels for Hazardous Chemicals,* page 2. Available at *https://www.epa.gov/sites/production/files/2015-09/documents/sop_final_standing_operating_procedures_2001*.pdf. Note that the National Advisory Committee/AEGL Committee ended in October 2011, but the AEGL program continues to operate at the EPA and works with the National Academies to publish final AEGLs (*https://www.epa.gov/aegl*).

[13] *ERPGS Procedures and Responsibilities.* March 2014. American Industrial Hygiene Association. Available at: *https://www.aiha.org/get-involved/AIHAGuidelineFoundation/EmergencyResponsePlanningGuidelines/Documents/ERPG%20Committee%20Standard%20Operating%20Procedures%20%20-%20March%202014%20Revision%20%28Updated%2010-2-2014%29.pdf.*

Subpart QQQQ, available in the docket for this rulemaking.

In our acute inhalation screening risk assessment, acute impacts are deemed negligible for HAP where acute HQs are less than or equal to 1 (even under the conservative assumptions of the screening assessment), and no further analysis is performed for these HAP. In cases where an acute HQ from the screening step is greater than 1, we consider additional site-specific data to develop a more refined estimate of the potential for acute impacts of concern. For this source category, we refined our analysis by reviewing the receptor locations where the maximum HQ occurred. These refinements are discussed more fully in the *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this source category.

4. How did we conduct the multipathway exposure and risk screening assessment?

The EPA conducted a tiered screening assessment examining the potential for significant human health risks due to exposures via routes other than inhalation (*i.e.,* ingestion). We first determined whether any sources in the source category emitted any PB–HAP, as identified in the EPA's Air Toxics Risk Assessment Library (see Volume 1, Appendix D, at *http://www2.epa.gov/fera/risk-assessment-and-modeling-air-toxics-risk-assessment-reference-library*).

For the Surface Coating of Wood Building Products source category, we did not identify emissions of any PB–HAP except for lead compounds, for which the lead NAAQS was applied to assess multipathway impacts. Because we did not identify PB–HAP emissions requiring further evaluation, no further evaluation of multipathway risk was conducted for this source category.

In evaluating the potential multipathway risk from emissions of lead compounds, rather than developing a screening threshold emission rate, we compare maximum estimated chronic inhalation exposure concentrations with the level of the current NAAQS for lead.[14] Values below the level of the primary (health-based) lead NAAQS are considered to have a low potential for multipathway risk.

For further information on the multipathway assessment approach, see the *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

5. How did we conduct the environmental risk screening assessment?

a. Adverse Environmental Effects, Environmental HAP, and Ecological Benchmarks

The EPA conducts a screening assessment to examine the potential for adverse environmental effects as required under section 112(f)(2)(A) of the CAA. Section 112(a)(7) of the CAA defines ''adverse environmental effect'' as ''any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.''

The EPA focuses on eight HAP, which are referred to as ''environmental HAP,'' in its screening assessment: six PB–HAP and two acid gases. The PB–HAP included in the screening assessment are arsenic compounds, cadmium compounds, dioxins/furans, polycyclic organic matter, mercury (both inorganic mercury and methyl mercury), and lead compounds. The acid gases included in the screening assessment are hydrochloric acid (HCl) and hydrogen fluoride (HF).

The HAP that persist and bioaccumulate are of particular environmental concern because they accumulate in the soil, sediment, and water. The acid gases, HCl and HF, were included due to their well-documented potential to cause direct damage to terrestrial plants. In the environmental risk screening assessment, we evaluate the following four exposure media: Terrestrial soils, surface water bodies (includes water-column and benthic sediments), fish consumed by wildlife, and air. Within these four exposure media, we evaluate nine ecological assessment endpoints, which are defined by the ecological entity and its attributes. For PB–HAP (other than lead), both community-level and population-level endpoints are included. For acid gases, the ecological assessment evaluated is terrestrial plant communities.

An ecological benchmark represents a concentration of HAP that has been linked to a particular environmental effect level. For each environmental HAP, we identified the available ecological benchmarks for each assessment endpoint. We identified, where possible, ecological benchmarks at the following effect levels: Probable effect levels, lowest-observed-adverse-effect level, and no-observed-adverse-effect level. In cases where multiple effect levels were available for a particular PB–HAP and assessment endpoint, we use all of the available effect levels to help us to determine whether ecological risks exist and, if so, whether the risks could be considered significant and widespread.

For further information on how the environmental risk screening assessment was conducted, including a discussion of the risk metrics used, how the environmental HAP were identified, and how the ecological benchmarks were selected, see Appendix 9 of the *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

b. Environmental Risk Screening Methodology

For the environmental risk screening assessment, the EPA first determined whether any facilities in the Surface Coating of Wood Building Products source category emitted any of the environmental HAP. For the Surface Coating of Wood Building Products source category, we identified emissions of lead compounds.

Because one or more of the environmental HAP evaluated are emitted by at least one facility in the source category, we proceeded to the second step of the evaluation.

To evaluate the potential for adverse environmental effects from lead, we compared the average modeled air concentrations (from HEM–3) of lead around each facility in the source category to the level of the secondary NAAQS for lead. The secondary lead NAAQS is a reasonable means of evaluating environmental risk because it is set to provide substantial protection against adverse welfare effects which

[14] In doing so, the EPA notes that the legal standard for a primary NAAQS—that a standard is requisite to protect public health and provide an adequate margin of safety (CAA section 109(b))—differs from the CAA section 112(f) standard (requiring, among other things, that the standard provide an ''ample margin of safety''). However, the primary lead NAAQS is a reasonable measure of determining risk acceptability (*i.e.,* the first step of the Benzene NESHAP analysis) since it is designed to protect the most susceptible group in the human population—children, including children living near major lead emitting sources. 73 FR 67002/3; 73 FR 67000/3; 73 FR 67005/1. In addition, applying the level of the primary lead NAAQS at the risk acceptability step is conservative, since that primary lead NAAQS reflects an adequate margin of safety.

can include ''effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being.''

6. How did we conduct facility-wide assessments?

To put the source category risks in context, we typically examine the risks from the entire ''facility,'' where the facility includes all HAP-emitting operations within a contiguous area and under common control. In other words, we examine the HAP emissions not only from the source category emission points of interest, but also emissions of HAP from all other emission sources at the facility for which we have data.

For this source category, we conducted the facility-wide assessment using a dataset that the EPA compiled from the 2014 NEI. We used the NEI data for the facility and did not adjust any category or ''non-category'' data. Therefore, there could be differences in the dataset from that used for the source category assessments described in this preamble. We analyzed risks due to the inhalation of HAP that are emitted ''facility-wide'' for the populations residing within 50 km of each facility, consistent with the methods used for the source category analysis described above. For these facility-wide risk analyses, we made a reasonable attempt to identify the source category risks, and these risks were compared to the facility-wide risks to determine the portion of facility-wide risks that could be attributed to the source category addressed in this proposal. We also specifically examined the facility that was associated with the highest estimate of risk and determined the percentage of that risk attributable to the source category of interest. The *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* available through the docket for this action, provides the methodology and results of the facility-wide analyses, including all facility-wide risks and the percentage of source category contribution to facility-wide risks.

7. How did we consider uncertainties in risk assessment?

Uncertainty and the potential for bias are inherent in all risk assessments, including those performed for this proposal. Although uncertainty exists, we believe that our approach, which used conservative tools and assumptions in order to avoid under-estimating effects, ensures that our decisions are health and environmentally protective. A brief discussion of the uncertainties in the RTR emissions dataset, dispersion modeling, inhalation exposure estimates, and dose-response relationships follows below. Also included are those uncertainties specific to our acute screening assessments, multipathway screening assessments, and our environmental risk screening assessments. A more thorough discussion of these uncertainties is included in the *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action. If a multipathway site-specific assessment was performed for this source category, a full discussion of the uncertainties associated with that assessment can be found in Appendix 11 of that document, *Site-Specific Human Health Multipathway Residual Risk Assessment Report.*

a. Uncertainties in the RTR Emissions Dataset

Although the development of the RTR emissions dataset involved quality assurance/quality control (QC) processes, the accuracy of emissions values will vary depending on the source of the data, the degree to which data are incomplete or missing, the degree to which assumptions made to complete the datasets are accurate, errors in emission estimates, and other factors. The emission estimates considered in this analysis generally are annual totals for certain years, and they do not reflect short-term fluctuations during the course of a year or variations from year to year. The estimates of peak hourly emission rates for the acute effects screening assessment were based on an emission adjustment factor applied to the average annual hourly emission rates, which are intended to account for emission fluctuations due to normal facility operations.

b. Uncertainties in Dispersion Modeling

We recognize there is uncertainty in ambient concentration estimates associated with any model, including the EPA's recommended regulatory dispersion model, AERMOD. In using a model to estimate ambient pollutant concentrations, the user chooses certain options to apply. For RTR assessments, we select some model options that have the potential to overestimate ambient air concentrations (*e.g.,* not including plume depletion or pollutant transformation). We select other model options that have the potential to underestimate ambient impacts (*e.g.,* not including building downwash). Other options that we select have the potential to either under- or overestimate ambient levels (*e.g.,* meteorology and receptor locations). On balance, considering the directional nature of the uncertainties commonly present in ambient concentrations estimated by dispersion models, the approach we apply in the RTR assessments should yield unbiased estimates of ambient HAP concentrations. We also note that the selection of meteorology dataset location could have an impact on the risk estimates. As we continue to update and expand our library of meteorological station data used in our risk assessments, we expect to reduce this variability.

c. Uncertainties in Inhalation Exposure Assessment

Although every effort is made to identify all of the relevant facilities and emission points, as well as to develop accurate estimates of the annual emission rates for all relevant HAP, the uncertainties in our emission inventory likely dominate the uncertainties in the exposure assessment. Some uncertainties in our exposure assessment include human mobility, using the centroid of each census block, assuming lifetime exposure, and assuming only outdoor exposures. For most of these factors, there is neither an under nor overestimate when looking at the maximum individual risks or the incidence, but the shape of the distribution of risks may be affected. With respect to outdoor exposures, actual exposures may not be as high if people spend time indoors, especially for very reactive pollutants or larger particles. For all factors, we reduce uncertainty when possible. For example, with respect to census-block centroids, we analyze large blocks using aerial imagery and adjust locations of the block centroids to better represent the population in the blocks. We also add additional receptor locations where the population of a block is not well represented by a single location.

d. Uncertainties in Dose-Response Relationships

There are uncertainties inherent in the development of the dose-response values used in our risk assessments for cancer effects from chronic exposures and noncancer effects from both chronic and acute exposures. Some uncertainties are generally expressed quantitatively, and others are generally expressed in qualitative terms. We note,

as a preface to this discussion, a point on dose-response uncertainty that is stated in the EPA's *2005 Cancer Guidelines;* namely, that ''the primary goal of EPA actions is protection of human health; accordingly, as an Agency policy, risk assessment procedures, including default options that are used in the absence of scientific data to the contrary, should be health protective'' (EPA's *2005 Cancer Guidelines,* pages 1–7). This is the approach followed here as summarized in the next paragraphs.

Cancer UREs used in our risk assessments are those that have been developed to generally provide an upper bound estimate of risk. That is, they represent a ''plausible upper limit to the true value of a quantity'' (although this is usually not a true statistical confidence limit).[15] In some circumstances, the true risk could be as low as zero; however, in other circumstances the risk could be greater.[16] Chronic noncancer RfC and reference dose (RfD) values represent chronic exposure levels that are intended to be health-protective levels. To derive dose-response values that are intended to be ''without appreciable risk,'' the methodology relies upon an uncertainty factor (UF) approach (U.S. EPA, 1993 and 1994) which considers uncertainty, variability, and gaps in the available data. The UFs are applied to derive dose-response values that are intended to protect against appreciable risk of deleterious effects.

Many of the UFs used to account for variability and uncertainty in the development of acute dose-response values are quite similar to those developed for chronic durations. Additional adjustments are often applied to account for uncertainty in extrapolation from observations at one exposure duration (*e.g.,* 4 hours) to derive an acute dose-response value at another exposure duration (*e.g.,* 1 hour). Not all acute dose-response values are developed for the same purpose, and care must be taken when interpreting the results of an acute assessment of human health effects relative to the dose-response value or values being exceeded. Where relevant to the estimated exposures, the lack of acute dose-response values at different levels of severity should be factored into the risk characterization as potential uncertainties.

Uncertainty also exists in the selection of ecological benchmarks for the environmental risk screening assessment. We established a hierarchy of preferred benchmark sources to allow selection of benchmarks for each environmental HAP at each ecological assessment endpoint. We searched for benchmarks for three effect levels (*i.e.,* no-effects level, threshold-effect level, and probable effect level), but not all combinations of ecological assessment/environmental HAP had benchmarks for all three effect levels. Where multiple effect levels were available for a particular HAP and assessment endpoint, we used all of the available effect levels to help us determine whether risk exists and whether the risk could be considered significant and widespread.

Although every effort is made to identify appropriate human health effect dose-response values for all pollutants emitted by the sources in this risk assessment, some HAP emitted by this source category are lacking dose-response assessments. Accordingly, these pollutants cannot be included in the quantitative risk assessment, which could result in quantitative estimates understating HAP risk. To help to alleviate this potential underestimate, where we conclude similarity with a HAP for which a dose-response value is available, we use that value as a surrogate for the assessment of the HAP for which no value is available. To the extent use of surrogates indicates appreciable risk, we may identify a need to increase priority for an IRIS assessment for that substance. We additionally note that, generally speaking, HAP of greatest concern due to environmental exposures and hazard are those for which dose-response assessments have been performed, reducing the likelihood of understating risk. Further, HAP not included in the quantitative assessment are assessed qualitatively and considered in the risk characterization that informs the risk management decisions, including consideration of HAP reductions achieved by various control options.

For a group of compounds that are unspeciated (*e.g.,* glycol ethers), we conservatively use the most protective dose-response value of an individual compound in that group to estimate risk. Similarly, for an individual compound in a group (*e.g.,* ethylene glycol diethyl ether) that does not have a specified dose-response value, we also apply the most protective dose-response value from the other compounds in the group to estimate risk.

e. Uncertainties in Acute Inhalation Screening Assessments

In addition to the uncertainties highlighted above, there are several factors specific to the acute exposure assessment that the EPA conducts as part of the risk review under section 112 of the CAA. The accuracy of an acute inhalation exposure assessment depends on the simultaneous occurrence of independent factors that may vary greatly, such as hourly emissions rates, meteorology, and the presence of humans at the location of the maximum concentration. In the acute screening assessment that we conduct under the RTR program, we assume that peak emissions from the source category and worst-case meteorological conditions co-occur, thus, resulting in maximum ambient concentrations. These two events are unlikely to occur at the same time, making these assumptions conservative in the sense that they may over-estimate effects. We then include the additional assumption that a person is located at this point during this same time period. For this source category, these assumptions would tend to be worst-case actual exposures as it is unlikely that a person would be located at the point of maximum exposure during the time when peak emissions and worst-case meteorological conditions occur simultaneously.

IV. Analytical Results and Proposed Decisions

A. What are the results of the risk assessment and analyses?

As described above, for the Surface Coating of Wood Building Products source category, we conducted an inhalation risk assessment for all HAP emitted, and multipathway and environmental risk screening assessments on the only PB–HAP emitted, lead. We present results of the risk assessment briefly below and in more detail in the residual risk document titled *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

1. Inhalation Risk Assessment Results

Table 2 of this preamble provides an overall summary of the results of the inhalation risk assessment. As discussed in section III.C.2 of this preamble, we set MACT-allowable HAP emission levels equal to actual emissions. For more detail about the MACT-allowable emission levels, see the memorandum,

[15] IRIS glossary (*https://ofmpub.epa.gov/sor_internet/registry/termreg/searchandretrieve/glossariesandkeywordlists/search.do?details=&glossaryName=IRIS%20Glossary*).

[16] An exception to this is the URE for benzene, which is considered to cover a range of values, each end of which is considered to be equally plausible, and which is based on maximum likelihood estimates.

Preparation of Residual Risk Modeling Input File for Subpart QQQQ,[5] which is available in the docket for this action.

TABLE 2—SURFACE COATING OF WOOD BUILDING PRODUCTS INHALATION RISK ASSESSMENT RESULTS [1]

Risk assessment	Number of facilities [2]	Maximum individual cancer risk (in 1 million) [3]	Estimated population at increased risk of cancer ≥1-in-1 Million	Estimated annual cancer incidence (cases per year)	Maximum chronic noncancer TOSHI [4]	Maximum screening acute noncancer HQ [5]
Source Category ..	46	6	800	0.0006	0.05	1
Facility-Wide	46	30	26,000	0.004	7	.....

[1] Based on actual and allowable emissions. For this source category, actual and allowable emissions are identical, so a separate risk assessment was not conducted for allowable emissions.
[2] Number of facilities evaluated in the risk assessment. As described elsewhere, there are additional facilities included in the data set for the technology review.
[3] Maximum individual excess lifetime cancer risk due to HAP emissions from the source category.
[4] Maximum TOSHI. The target organ with the highest TOSHI for the wood building products source category is the respiratory system.
[5] The maximum estimated acute exposure concentration was divided by available short-term threshold values to develop an array of HQ values. HQ values shown use the lowest available acute threshold value, which in most cases is the REL. When an HQ exceeds 1, we also show the HQ using the next lowest available acute dose-response value.

The inhalation risk modeling performed to estimate risks based on actual and allowable emissions relied primarily on emissions data from the NEI. The results of the inhalation cancer risk assessment, as shown in Table 2 of this preamble, indicate that the MIR could be up to 6-in-1 million, with formaldehyde from the melamine laminating process as the sole contributor (100 percent) to the MIR. The total estimated cancer incidence from wood building product coating sources based on actual emission levels is 0.0006 excess cancer cases per year or one case every 1,667 years, with emissions of formaldehyde (35 percent), naphthalene (27 percent), ethyl benzene (21 percent), and chromium (VI) compounds (17 percent) contributing to the cancer incidence. In addition, we estimate that approximately 800 people have cancer risks greater than or equal to 1-in-1 million.

The maximum modeled chronic noncancer HI (TOSHI) value for the source category based on actual emissions is estimated to be 0.05, with emissions of formaldehyde from the melamine laminating process as the sole contributor (100 percent) to the TOSHI. The target organ affected is the respiratory system. There are not any people estimated to have exposure to HI levels greater than 1 as a result of emissions from this source category.

2. Acute Risk Results

Table 2 of this preamble shows the acute risk results for this category. The screening analysis for acute impacts was based on actual emissions, and to estimate the peak emission rates from the average rates, an industry-specific multiplier of 3 was used for two facilities, and a default factor of 10 was used for the remaining facilities. The results of the acute screening analysis indicate that the maximum off-facility-site acute HQ is 1, based on the REL value for formaldehyde, and occurs at two facilities. One of these two facilities used the acute factor of 3 to characterize short-term emissions, while the other used the factor of 10. For all other HAP and facilities, acute HQ values are less than 1. Refer to the document titled *Preparation of the Residual Risk Modeling Input File for Subpart QQQQ* (available in the docket for this action) for a detailed description of how the acute factors were developed for this source category. For more detailed acute risk results, refer to the residual risk document titled *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* which is available in the docket for this action.

3. Multipathway Risk Screening Results

The only PB–HAP emitted by facilities in this source category is lead. Results of the analysis for lead indicate that based on actual emissions, the maximum annual off-site ambient lead concentration was only 0.1 percent of the primary NAAQS for lead, and if the total annual emissions occurred during a 3-month period, the maximum 3-month rolling average concentration would still be only 0.5 percent of the NAAQS. Therefore, we do not expect any human health multipathway risks as a result of emissions from this source category.

4. Environmental Risk Screening Results

The only environmental HAP emitted by facilities in this source category is lead. Results of the analysis for lead indicate that based on actual emissions, the maximum annual off-site ambient lead concentration was only 0.1 percent of the secondary NAAQS for lead, and if the total annual emissions occurred during a 3-month period, the maximum 3-month rolling average concentration would still be only 0.5 percent of the NAAQS. Therefore, we do not expect an adverse environmental effect as a result of HAP emissions from this source category.

5. Facility-Wide Risk Results

An assessment of the facility-wide risks was performed to provide context for the source category risks, using NEI data as described above. The maximum facility-wide cancer MIR is 30-in-1 million, mainly driven by formaldehyde, chromium (VI) compounds, and nickel compounds emissions from wood drying and enamel coating operations. Wood drying is regulated under 40 CFR part 63, subpart DDDD, the Plywood and Composite Wood Products NESHAP, and enamel coating is regulated under 40 CFR part 63, subpart RRRR, the Surface Coating of Metal Furniture NESHAP. Risk and technology reviews are currently underway for both NESHAP categories. The total estimated cancer incidence from the facility-wide assessment is 0.004 excess cancer cases per year, or one excess case in every 250 years. Approximately 26,000 people are estimated to have cancer risks greater than 1-in-1 million from exposure to HAP emitted from both MACT and non-MACT sources. The maximum facility-wide TOSHI is estimated to be 7, mainly driven by emissions of acrolein from industrial processes related to wood products that are characterized as ''other, not classified'' in NEI. Wood drying, regulated under 40 CFR part 63, subpart DDDD, noted above, is presumably the source of the acrolein since the facilities identified as sources also dry wood. We estimate that

approximately 900 people are exposed to noncancer HI levels above 1, based on facility-wide emissions.

6. What demographic groups might benefit from this regulation?

To examine the potential for any environmental justice (EJ) issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of risks to individual demographic groups of the populations living within 5 km and within 50 km of the facilities. In the analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Surface Coating of Wood Building Products source category across different demographic groups within the populations living near facilities.[17]

The results of the demographic analysis are summarized in Table 3 below. These results, for various demographic groups, are based on the estimated risks from actual emissions levels for the population living within 50 km of the facilities.

TABLE 3—SURFACE COATING OF WOOD BUILDING PRODUCTS SOURCE CATEGORY DEMOGRAPHIC RISK ANALYSIS RESULTS

	Nationwide	Population with cancer risk at or above 1-in-1 million due to wood building products surface coating	Population with chronic hazard index above 1 due to wood building products surface coating
Total Population	317,746,049	800	0
Race by Percent			
White	62	16	0
All Other Races	38	84	0
Race by Percent			
White	62	16	0
African American	12	75	0
Native American	0.8	0.0	0
Other and Multiracial	7	3	0
Ethnicity by Percent			
Hispanic	18	6	0
Non-Hispanic	82	94	0
Income by Percent			
Below Poverty Level	14	19	0
Above Poverty Level	86	81	0
Education by Percent			
Over 25 and without High School Diploma	14	25	0
Over 25 and with a High School Diploma	86	75	0

The results of the Surface Coating of Wood Building Products source category demographic analysis indicate that emissions from the source category expose approximately 800 people to a cancer risk at or above 1-in-1 million and no people to a chronic noncancer TOSHI greater than 1. The percentages of the at-risk population are greater than their respective nationwide percentages for the following demographic groups (excluding non-Hispanic): African American, people over 25 without a high school diploma, and people living below the poverty level. The other demographic groups within the exposed population were similar to or lower than the corresponding nationwide percentages.

The methodology and the results of the demographic analysis are presented in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Wood Building Products Surface Coating Facilities,* available in the docket for this action.

B. What are our proposed decisions regarding risk acceptability, ample margin of safety, and adverse environmental effects?

1. Risk Acceptability

As noted in section II.A of this preamble, the EPA sets standards under CAA section 112(f)(2) using ''a two-step standard-setting approach, with an analytical first step to determine an 'acceptable risk' that considers all health information, including risk estimation uncertainty, and includes a presumptive limit on MIR of ''approximately 1-in-10 thousand'' (54 FR 38045, September 14, 1989). We weigh all health risk factors in our risk

[17] Demographic groups included in the analysis are: White, African American, Native American, other races and multiracial, Hispanic or Latino, children 17 years of age and under, adults 18 to 64 years of age, adults 65 years of age and over, adults without a high school diploma, people living below the poverty level, people living two times the poverty level, and linguistically isolated people.

acceptability determination, including the cancer MIR, cancer incidence, the maximum cancer TOSHI, the maximum acute noncancer HQ, the extent of noncancer risks, the distribution of cancer and noncancer risks in the exposed population, and the risk estimation uncertainties.

For this risk assessment, the EPA estimated risks based on actual and allowable emissions from wood building products surface coating sources. Allowable emissions were estimated to be equal to actual emissions. The estimated inhalation cancer risk to the individual most exposed to emissions from the source category is 6-in-1-million. Approximately 800 people face an increased cancer risk greater than 1-in-1 million due to inhalation exposure to HAP emissions from this source category. The risk analysis indicates very low cancer incidence (0.0006 excess cancer cases per year, or one excess case every 1,667 years), as well as low potential for adverse chronic noncancer health effects. The acute screening assessment indicates no pollutants or facilities exceeding an HQ value of 1. Therefore, we find there is little potential concern of acute noncancer health impacts. In evaluating the potential for multipathway effects from emissions of lead from the source category, the risk assessment indicates no significant potential for multipathway effects.

Considering all of the health risk information and factors discussed above, including the uncertainties discussed in section III of this preamble, the EPA proposes that the risks from the Surface Coating of Wood Building Products source category are acceptable.

2. Ample Margin of Safety Analysis and Proposed Controls

As directed by CAA section 112(f)(2), we conducted an analysis to determine if the current emissions standards provide an ample margin of safety to protect public health. Under the ample margin of safety analysis, the EPA considers all health factors evaluated in the risk assessment and evaluates the cost and feasibility of available control technologies and other measures (including the controls, measures, and costs reviewed under the technology review) that could be applied to this source category to further reduce the risks (or potential risks) due to emissions of HAP identified in our risk assessment. In this analysis, we considered the results of the technology review, risk assessment, and other aspects of our MACT rule review to determine whether there are any cost-effective controls or other measures that would reduce emissions further to provide an ample margin of safety with respect to the risks associated with these emissions.

Although we are proposing that the risks from this source category are acceptable, risk estimates for approximately 800 people in the exposed population are above 1-in-1 million, caused by formaldehyde emissions from one facility. The maximum acute risk is an HQ of 1 also caused by formaldehyde. As a result, we further considered whether the MACT standards for this source category provide an ample margin of safety to protect public health.

Our technology review did not identify any new practices, controls, or process options that are being used in this industry, or in other industries, that would be cost effective and result in further reduction of formaldehyde emissions.[18] Our review of the operating permits for major sources subject to the Surface Coating of Wood Building Products MACT did not reveal any facilities with limits set below the current new or existing source limits (Tables 1 and 2, 40 CFR part 63, subpart QQQQ). Limits set below the current standards would have been an indication that improved controls or lower emission compliant coatings were available. As discussed in the technology review memorandum, our review of the RACT/BACT/LAER Clearinghouse (RBLC) identified three sources that are potentially covered under 40 CFR part 63, subpart QQQQ, but none contained new control methods.

Because no new controls, technologies, processes, or work practices were identified to reduce formaldehyde emissions and the risk assessment determined that the health risks associated with HAP emissions remaining after implementation of the Surface Coating of Wood Building Products MACT were acceptable, we are proposing that the current standards protect public health with an ample margin of safety.

3. Adverse Environmental Effects

The emissions data for this source category indicate the presence of one environmental HAP, lead, emitted by sources within this source category. Based on the results of our environmental risk screening assessment, we conclude that there is not an adverse environmental effect as a result of HAP emissions from the Surface Coatings of Wood Building Products source category.[19] Thus, we are proposing that it is not necessary to set a more stringent standard.

C. What are the results and proposed decisions based on our technology review?

1. How did we evaluate technological developments?

Section 112(d)(6) of the CAA requires a review of ''developments in practices, processes and control technologies'' in each source category as part of the technology review process. For this technology review, the ''developments'' we consider include:

- Add-on control technology that was not identified during the NESHAP development;
- improvement to an existing add-on control technology resulting in significant additional HAP emissions reductions;
- work practice or operational procedure that was not previously identified;
- process change or pollution prevention alternative that was not identified; or
- a coating formulation or application technique that was not previously identified.

2. What was our analysis and conclusions regarding technological developments?

Our review of the developments in technology for the Surface Coating of Wood Building Products source category did not reveal any changes that require revisions to the emission standards. In the original NESHAP, it was noted that ''the most prevalent form of emission control for surface coating of wood building products is the use of low-VOC and low-HAP coatings, such as waterborne or ultraviolet-cured coatings.'' [20]

Our review did not identify any new or improved add-on control technology, any new work practices, operational procedures, process changes, or new pollution prevention approaches that reduce emissions in the category that have been implemented at wood building products surface coating

[18] *Technology Review for the Surface Coating of Wood Building Products Source Category—Proposed Rule;* see Docket ID No. EPA–HQ–OAR–2016–0678.

[19] The environmental screening analysis is documented in *Residual Risk Assessment for Wood Building Products Surface Coating Sources in Support of the February 2018 Risk and Technology Review Proposed Rule,* in the docket for this action.

[20] *Preliminary Industry Characterization: Wood Building Products Surface Coating.* Publication No. EPA–453/R–00–004. September 1998. Available at *https://www3.epa.gov/airtoxics/coat/flatw/wbppic.pdf.*

operations since promulgation of the current NESHAP. Consequently, we propose that no revisions to the NESHAP are necessary pursuant to CAA section 112(d)(6).

D. What other actions are we proposing?

In addition to the proposed determinations described above, we are proposing additional revisions. We are proposing revisions to the SSM provisions of the MACT rule in order to ensure that they are consistent with the Court decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which vacated two provisions that exempted sources from the requirement to comply with otherwise applicable CAA section 112(d) emission standards during periods of SSM. We also are proposing various other changes, including an alternative compliance calculation, electronic submittal of notifications, compliance reports, and performance test reports, a new EPA test method, incorporation by reference (IBR) of several test methods (listed in section IV.D.5 below), and various technical and editorial changes. Additionally, we are requesting comment on repeat emissions testing requirements for facilities that demonstrate compliance with the standards using add-on control devices. Our analyses and proposed changes related to these issues are discussed in sections IV.D.1 through 6 of this preamble.

1. Startup, Shutdown, and Malfunction

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the Court vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the Court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and 40 CFR 63.6(h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some CAA section 112 standards apply continuously.

We are proposing the elimination of the SSM exemption in this rule, which appears at 40 CFR 63.4700, 40 CFR 63.4720, and in Table 4 to Subpart QQQQ of Part 63. Consistent with *Sierra Club* v. *EPA,* we are proposing standards in this rule that apply at all times. We are also proposing several revisions to Table 4 (the General Provisions Applicability Table) as is explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption as further described below.

The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption. We are specifically seeking comment on whether we have successfully done so. The EPA believes the removal of the SSM exemption creates no additional burden to facilities regulated under the Surface Coating of Wood Building Products NESHAP. Deviations currently addressed by a facility's SSM Plan are required to be reported in the Semiannual Compliance Report, a requirement that remains under the proposal (40 CFR 63.4720). Facilities will no longer need to develop an SSM Plan or keep it current (Table 4, 40 CFR part 63, subpart QQQQ). Facilities will also no longer have to file special SSM reports for deviations not described in the their SSM Plan [40 CFR 63.4720(c)(2)]. We are specifically seeking comment on whether we have successfully removed SSM exemptions without adding unforeseen burden.

Periods of startup and shutdown. In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, is not proposing alternate standards for those periods.

For add-on control systems, the Surface Coating of Wood Building Products NESHAP requires the measurement of thermal oxidizer (TO) operating temperature or catalytic oxidizer (CO) average temperature across the catalyst bed as well as other types of parameter monitoring. Parameter limits apply at all times, including during periods of startup and shutdown. The Surface Coating of Wood Building Products NESHAP requires TO or CO operating temperature and other add-on control device operating parameters to be recorded at least once every 15 minutes. The Surface Coating of Wood Building Products NESHAP specifies in 40 CFR 63.4763(c) that if an operating parameter is out of the allowed range, this is a deviation from the operating limit and must be reported as specified in 40 CFR 63.4710(c)(6) and 63.4720(a)(7).

Our permit review of the facilities using add-on control as a compliance approach indicated that all were required, by permit, to have their control system in operation during all time periods when coating processes were operational. The rule requires compliance based on a 12-month rolling average emissions calculation. Periods of startup and shutdown are included, but, because of operational requirements in the category, are a very small component of the emissions calculation. Therefore, we are not proposing separate standards for startup and/or shutdown periods.

Periods of malfunction. Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process or monitoring equipment. (40 CFR 63.2, definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the Court in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Under CAA section 112, emissions standards for new sources must be no less stringent than the level ''achieved'' by the best controlled similar source and for existing sources generally must be no less stringent than the average emission limitation ''achieved'' by the best performing 12 percent of sources in the category. There is nothing in CAA section 112 that directs the Agency to consider malfunctions in determining the level ''achieved'' by the best performing sources when setting emission standards. As the Court has recognized, the phrase ''average emissions limitation achieved by the best performing 12 percent of'' sources ''says nothing about how the performance of the best units is to be calculated.'' *National Association of Clean Water Agencies* v. *EPA,* 734 F.3d 1115, 1141 (D.C. Cir. 2013). While the EPA accounts for variability in setting emissions standards, nothing in CAA section 112 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in ''normal or usual manner,'' and no statutory language compels the EPA to consider such events in setting CAA section 112 standards.

As the Court recognized in *U.S. Sugar Corporation,* accounting for malfunctions in setting standards would be difficult, if not impossible, given the myriad different types of malfunctions that can occur across all sources in the category and given the difficulties

associated with predicting or accounting for the frequency, degree, and duration of various malfunctions that might occur. *Id.* at 608 (''the EPA would have to conceive of a standard that could apply equally to the wide range of possible boiler malfunctions, ranging from an explosion to minor mechanical defects. Any possible standard is likely to be hopelessly generic to govern such a wide array of circumstances.'') As such, the performance of units that are malfunctioning is not ''reasonably'' foreseeable. See, *e.g., Sierra Club* v. *EPA,* 167 F.3d 658, 662 (D.C. Cir. 1999) (''The EPA typically has wide latitude in determining the extent of data-gathering necessary to solve a problem. We generally defer to an agency's decision to proceed on the basis of imperfect scientific information, rather than to 'invest the resources to conduct the perfect study.'''') See also, *Weyerhaeuser* v. *Costle,* 590 F.2d 1011, 1058 (D.C. Cir. 1978) (''In the nature of things, no general limit, individual permit, or even any upset provision can anticipate all upset situations. After a certain point, the transgression of regulatory limits caused by 'uncontrollable acts of third parties,' such as strikes, sabotage, operator intoxication or insanity, and a variety of other eventualities, must be a matter for the administrative exercise of case-by-case enforcement discretion, not for specification in advance by regulation.''). In addition, emissions during a malfunction event can be significantly higher than emissions at any other time of source operation. For example, if an air pollution control device with 99-percent removal goes off-line as a result of a malfunction (as might happen if, for example, the bags in a baghouse catch fire) and the emission unit is a steady state type unit that would take days to shut down, the source would go from 99-percent control to zero control until the control device was repaired. The source's emissions during the malfunction would be 100 times higher than during normal operations. As such, the emissions over a 4-day malfunction period would exceed the annual emissions of the source during normal operations. As this example illustrates, accounting for malfunctions could lead to standards that are not reflective of (and significantly less stringent than) levels that are achieved by a well-performing non-malfunctioning source. It is reasonable to interpret CAA section 112 to avoid such a result. The EPA's approach to malfunctions is consistent with CAA section 112 and is a reasonable interpretation of the statute.

Although no statutory language compels the EPA to set standards for malfunctions, the EPA has the discretion to do so where feasible. For example, in the Petroleum Refinery Sector RTR, the EPA established a work practice standard for unique types of malfunction that result in releases from pressure relief devices or emergency flaring events because information was available to determine that such work practices reflected the level of control that applies to the best performing sources. 80 FR 75178, 75211–14 (December 1, 2015). The EPA will consider whether circumstances warrant setting work practice standards for a particular type of malfunction and, if so, whether the EPA has sufficient information to identify the relevant best performing sources and establish a standard for such malfunctions. We also encourage commenters to provide any such information.

In the event that a source fails to comply with the applicable CAA section 112(d) standards as a result of a malfunction event, the EPA would determine an appropriate response based on, among other things, the good faith efforts of the source to minimize emissions during malfunction periods, including preventative and corrective actions, as well as root cause analyses to ascertain and rectify excess emissions. The EPA would also consider whether the source's failure to comply with the CAA section 112(d) standard was, in fact, sudden, infrequent, not reasonably preventable and was not instead caused in part by poor maintenance or careless operation. 40 CFR 63.2 (definition of malfunction).

If the EPA determines in a particular case that an enforcement action against a source for violation of an emission standard is warranted, the source can raise any and all defenses in that enforcement action and the federal district court will determine what, if any, relief is appropriate. The same is true for citizen enforcement actions. Similarly, the presiding officer in an administrative proceeding can consider any defense raised and determine whether administrative penalties are appropriate.

In summary, the EPA interpretation of the CAA and, in particular, CAA section 112 is reasonable and encourages practices that will avoid malfunctions. Administrative and judicial procedures for addressing exceedances of the standards fully recognize that violations may occur despite good faith efforts to comply and can accommodate those situations. *U.S. Sugar Corporation* v. *EPA,* 830 F.3d 579, 606–610 (2016).

a. General Duty

We are proposing to revise the General Provisions table (Table 4) entry for 40 CFR 63.6(e)(1)–(2) by redesignating it as 40 CFR 63.6(e)(1)(i) and changing the ''yes'' in column 3 to a ''no.'' Section 63.6(e)(1)(i) describes the general duty to minimize emissions. Some of the language in that section is no longer necessary or appropriate considering the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.4700(b) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations and SSM events in describing the general duty. Therefore, the language the EPA is proposing for 40 CFR 63.4700(b) does not include that language from 40 CFR 63.6(e)(1).

We are also proposing to revise the General Provisions table (Table 4) to add an entry for 40 CFR 63.6(e)(1)(ii) and include a ''no'' in column 3. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.4700(b).

We are also proposing to revise the General Provisions table (Table 4) to add an entry for 40 CFR 63.6(e)(1)(iii) and include a ''yes'' in column 3.

Finally, we are proposing to revise the General Provisions table (Table 4) to add an entry for 40 CFR 63.6(e)(2) and include a ''no'' in column 3. This paragraph is reserved and is not applicable to 40 CFR part 63, subpart QQQQ.

b. SSM Plan

We are proposing to revise the General Provisions table (Table 4) to add an entry for 40 CFR 63.6(e)(3) and include a ''no'' in column 3. Generally, these paragraphs require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units will be subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance, and, thus, the SSM plan requirements are no longer necessary.

c. Compliance With Standards

We are proposing to revise the General Provisions table (Table 4) entries for 40 CFR 63.6(f) and (h) by re-designating these sections as 40 CFR 63.6(f)(1) and (h)(1) and including a ''no'' in column 3. The current language in 40 CFR 63.6(f)(1) excludes sources from non-opacity standards during periods of SSM, while the current language in 40 CFR 63.6(h)(1) excludes sources from opacity standards during periods of SSM. As discussed above, the Court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously. Consistent with *Sierra Club,* the EPA is proposing to revise standards in this rule to apply at all times.

d. Performance Testing

We are proposing to revise the General Provisions table (Table 4) entry for 40 CFR 63.7(e) by re-designating it as 40 CFR 63.7(e)(1) and including a ''yes'' in column 3. Section 63.7(e)(1) describes performance testing requirements. Section 63.4764(a) of the current rule specifies that performance testing must be conducted when the emission capture system and add-on control device are operating at representative conditions. You must document why the conditions represent normal operation. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operations. Section 63.7(e) requires that the owner or operator make available to the Administrator such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request, but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record the information.

e. Monitoring

We are proposing to revise the General Provisions table (Table 4) by re-designating 40 CFR 63.8(c) as 40 CFR 63.8(c)(1), adding entries for 40 CFR 63.8(c)(1)(i) through (iii) and including ''no'' in column 3 for paragraphs (i) and (iii). The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary considering other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a QC program for monitoring equipment (40 CFR 63.8(d)).

f. Recordkeeping

We are proposing to revise the General Provisions table (Table 4) by adding an entry for 40 CFR 63.10(b)(2)(i) and including a ''no'' in column 3. Section 63.10(b)(2)(i) describes the recordkeeping requirements during startup and shutdown. These recording provisions are no longer necessary because the EPA is proposing that recordkeeping and reporting applicable to normal operations will apply to startup and shutdown. Special provisions applicable to startup and shutdown, such as a startup and shutdown plan, have been removed from the rule (with exceptions discussed below), thereby reducing the need for additional recordkeeping for startup and shutdown periods.

We are also proposing to revise the General Provisions table (Table 4) by adding an entry for 40 CFR 63.10(b)(2)(iv)–(v) and including a ''no'' in column 3. When applicable, the provision requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.

We are also proposing to revise the General Provisions table (Table 4) by adding an entry for 40 CFR 63.10(c)(15) and including a ''no'' in column 3. The EPA is proposing that 40 CFR 63.10(c)(15) no longer applies. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is proposing to eliminate this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

g. Reporting

We are proposing to revise the General Provisions table (Table 4) entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in column 3 to a ''no.'' Section 63.10(d)(5) describes the reporting requirements for startups, shutdowns, and malfunctions. To replace the General Provisions reporting requirement for malfunctions, the EPA is proposing to replace the SSM report under 40 CFR 63.10(d)(5) with the existing reporting requirements under 40 CFR 63.4720(a). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual report to be required under the proposed rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments, therefore, eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

The proposed amendments also eliminate the cross-reference to 40 CFR 63.10(d)(5)(ii). Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard, but did not follow the SSM plan. We will no longer require owners and operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

2. Alternative Compliance Calculations

An alternative monitoring request was submitted to the EPA which proposed utilizing a HAP emission factor to demonstrate compliance with the emission rate without add-on controls compliance option instead of the current emission factor in the rule which assumes that all HAP in the coating is emitted to the atmosphere. As discussed below, we are proposing to include this compliance calculation approach in this rulemaking to allow any facility utilizing a similar process to use the approach without requiring the submittal of an alternative monitoring request to the EPA under the provisions of 40 CFR 63.8(f). The proposed amendment adds compliance flexibility, but does not alter the emission standard.

The coating process uses a liquid catalyst to initiate chemical and physical change of the coating materials by the formation of a cross-linked polymer, and involves spraying wood panels with a two-part mixture consisting of a HAP-containing resin and a non-HAP catalyst. The catalyst polymerizes the resin to form the applied coating within a matter of seconds. The result is that the HAP in the resin is nearly completely polymerized and, as a result, the air emissions of HAP are a very small fraction of the total HAP applied.

We are proposing to add a new equation to the existing compliance demonstration calculations to more adequately represent the HAP amounts emitted by this type of surface coating or any similar coating. The existing equation assumes that all of the HAP in the coating is emitted. Facilities wishing to apply this emission calculation method could submit to the EPA an alternative monitoring request, however, this would add a compliance burden. To reduce the burden, we are adding alternative compliance demonstration equations, which do not assume 100 percent of the HAP in the coating is emitted. The proposed demonstration equations would use a HAP emission factor based on initial stack testing of the proposed coating process. This approach quantifies emissions in a way that is representative of the actual emissions from this coating operation.

2. Emissions Testing

The EPA is proposing amendments to the Surface Coating of Wood Building Products NESHAP that would provide an additional compliance demonstration equation. Facilities using the proposed alternative compliance demonstration equation (40 CFR 63.4751(i)) of the emission rate without add-on controls option would be required to conduct an initial performance test to demonstrate compliance. As explained in the technical supporting memoranda accompanying this proposal,[18] performance testing is needed to develop process specific emission factors to demonstrate compliance for the new alternative equation. In addition, requiring initial performance testing under the proposed option would be equitable with respect to sources meeting the currently promulgated compliance demonstration requirements, as facilities demonstrating compliance through the currently promulgated emission rate with add-on controls option (40 CFR 63.4691(c)) are already required to conduct a similar initial air emissions performance test to demonstrate compliance. This amendment is expected to impact one facility, with a one-time cost of $22,000 for the initial performance test.

Additionally, the EPA is requesting comment on whether a periodic emissions testing provision should be added to the rule for sources using add-on controls. Currently, there are four existing facilities that have operating permits indicating the use of add-on control devices for wood building product surface coating operations. Only one of those facilities is not conducting a performance test on at least a 5-year frequency due to state requirements. The repeat performance testing provision on which the Agency is requesting comment would impact this facility if the provisions were finalized, with an estimated cost of $22,000 for each repeat performance test. The periodic testing provision on which the Agency is requesting comment would also require facilities utilizing the proposed alternative compliance demonstration equations (40 CFR 63.4751(i)) of the emission rate without add-on controls option to conduct a periodic air emissions performance test to develop process specific emissions factors to demonstrate continuing compliance. The periodic testing provision which the EPA is requesting comment would require one performance test at least every 5 years. The inclusion of a periodic repeat testing requirement would help demonstrate that emissions control equipment is continuing to operate as designed and that the facility remains in compliance with the standard.

3. Electronic Reporting

The EPA is proposing that owners and operators of facilities subject to 40 CFR part 63, subpart QQQQ submit electronic copies of compliance reports, which include performance test reports, semiannual reports, and notifications, through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). Specifically, we are proposing that owners and operators create performance test reports using the Electronic Reporting Tool (ERT) and submit the performance test reports, as well as notifications and semiannual reports through CEDRI. The EPA believes that the electronic submittal of the reports addressed in this proposed rulemaking will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability, will further assist in the protection of public health and the environment, and will ultimately result in less burden on the regulated community. Under current requirements, paper reports are often stored in filing cabinets or boxes, which make the reports more difficult to obtain and use for data analysis and sharing. Electronic storage of such reports makes data more accessible for review, analysis, and sharing. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors and providing data quickly and accurately to affected facilities, air agencies, the EPA, and the public.

In 2011, in response to Executive Order 13563, the EPA developed a plan[21] to periodically review its regulations to determine if they should be modified, streamlined, expanded, or repealed to make regulations more effective and less burdensome. The plan includes replacing outdated paper reporting with electronic reporting. In keeping with this plan and the White House's Digital Government Strategy,[22] in 2013 the EPA issued an agency-wide policy specifying that new regulations will require reports to be electronic to the maximum extent possible.[23] By requiring electronic submission of specified reports in this proposed rule,

[21] *Improving Our Regulations: Final Plan for Periodic Retrospective Reviews of Existing Regulations,* August 2011. Available at: *https://www.regulations.gov,* Document ID No. EPA–HQ–OA–2011–0156–0154.

[22] *Digital Government: Building a 21st Century Platform to Better Serve the American People,* May 2012. Available at: *https://www.whitehouse.gov/sites/default/files/omb/egov/digital-government/digital-government-strategy.pdf*

[23] E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

the EPA is taking steps to implement this policy.

The EPA website that stores the submitted electronic data, WebFIRE, is easily accessible to everyone and provides a user-friendly interface that any stakeholder can access. By making data readily available, electronic reporting increases the amount of data that can be used for many purposes. One example is the development of emissions factors. An emissions factor is a representative value that attempts to relate the quantity of a pollutant released to the atmosphere with an activity associated with the release of that pollutant (*e.g.,* kilograms of particulate emitted per megagram of coal burned). Such factors facilitate the estimation of emissions from various sources of air pollution and are an important tool in developing emissions inventories, which in turn are the basis for numerous efforts, including trends analysis, regional- and local-scale air quality modeling, regulatory impact assessments, and human exposure modeling. Emissions factors are also widely used in regulatory applicability determinations and in permitting decisions.

The EPA has received feedback from stakeholders asserting that many of the EPA's emissions factors are outdated or not representative of a particular industry emission source. While the EPA believes that the emissions factors are suitable for their intended purpose, we recognize that the quality of emissions factors varies based on the extent and quality of underlying data. We also recognize that emissions profiles on different pieces of equipment can change over time due to a number of factors (fuel changes, equipment improvements, industry work practices), and it is important for emissions factors to be updated to keep up with these changes. The EPA is currently pursuing emissions factor development improvements that include procedures to incorporate the source test data that we are proposing be submitted electronically. By requiring the electronic submission of the reports identified in this proposed action, the EPA would be able to access and use the submitted data to update emissions factors more quickly and efficiently, creating factors that are characteristic of what is currently representative of the relevant industry sector. Likewise, an increase in the number of test reports used to develop the emissions factors will provide more confidence that the factor is of higher quality and representative of the whole industry sector.

Additionally, by making the records, data, and reports addressed in this proposed rulemaking readily available, the EPA, the regulated community, and the public will benefit when the EPA conducts its CAA-required technology and risk-based reviews. As a result of having performance test reports and air emission data readily accessible, our ability to carry out comprehensive reviews will be increased and achieved within a shorter period of time. These data will provide useful information on control efficiencies being achieved and maintained in practice within a source category and across source categories for regulated sources and pollutants. These reports can also be used to inform the technology-review process by providing information on improvements to add-on control technology and new control technology.

Under an electronic reporting system, the EPA's Office of Air Quality Planning and Standards (OAQPS) would have air emissions and performance test data in hand; OAQPS would not have to collect these data from the EPA Regional offices or from delegated authorities or industry sources in cases where these reports are not submitted to the EPA Regional offices. Thus, we anticipate fewer or less substantial information collection requests (ICRs) may be needed in conjunction with prospective CAA-required technology and risk-based reviews. We expect this to result in a decrease in time spent by industry to respond to data collection requests. We also expect the ICRs to contain less extensive stack testing provisions, as we will already have stack test data electronically. Reduced testing requirements would be a cost savings to industry. The EPA should also be able to conduct these required reviews more quickly, as OAQPS will not have to include the ICR collection time in the process or spend time collecting reports from the EPA Regional offices. While the regulated community may benefit from a reduced burden of ICRs, the general public benefits from the Agency's ability to provide these required reviews more quickly, resulting in increased public health and environmental protection.

Electronic reporting minimizes submission of unnecessary or duplicative reports in cases where facilities report to multiple government agencies and the agencies opt to rely on the EPA's electronic reporting system to view report submissions. Where delegated authorities continue to require a paper copy of these reports and will accept a hard copy of the electronic report, facilities will have the option to print paper copies of the electronic reporting forms to submit to the delegated authorities, and, thus, minimize the time spent reporting to multiple agencies. Additionally, maintenance and storage costs associated with retaining paper records could likewise be minimized by replacing those records with electronic records of electronically submitted data and reports.

Delegated authorities could benefit from more streamlined and automated review of the electronically submitted data. For example, because performance test data would be readily-available in a standard electronic format, delegated authorities would be able to review reports and data electronically rather than having to conduct a review of the reports and data manually. Having reports and associated data in electronic format facilitates review through the use of software ''search'' options, as well as the downloading and analyzing of data in spreadsheet format. Additionally, delegated authorities would benefit from the reported data being accessible to them through the EPA's electronic reporting system wherever and whenever they want or need access, as long as they have access to the Internet. The ability to access and review reports electronically assists delegated authorities in determining compliance with applicable regulations more quickly and accurately, potentially allowing a faster response to violations, which could minimize harmful air emissions. This change benefits both delegated authorities and the public.

The proposed electronic reporting of data is consistent with electronic data trends (*e.g.,* electronic banking and income tax filing). Electronic reporting of environmental data is already common practice in many media offices at the EPA. The changes being proposed in this rulemaking are needed to continue the EPA's transition to electronic reporting.

As noted above, we are proposing that 40 CFR part 63, subpart QQQQ performance test reports be submitted through the EPA's ERT. With the exception of the method proposed in conjunction with this rulemaking, all test methods listed under 40 CFR part 63, subpart QQQQ are currently supported by the ERT. The proposal would require that performance test results collected using test methods that are not supported by the ERT as listed on the EPA's ERT Web site at the time of the test be submitted to the Administrator at the appropriate address listed in 40 CFR 63.13, unless the Administrator agrees to or specifies an alternate reporting method.

In addition to electronically reporting the results of performance tests, we are proposing the requirement to electronically submit notifications and the semiannual compliance report required in 40 CFR 63.4720. The proposal would require the owner or operator use the appropriate spreadsheet template in CEDRI for the subpart. If the reporting template specific to the subpart is not available at the time that the report is due, the owner or operator would submit the report to the Administrator at the appropriate addresses listed in the General Provisions. The owner or operator would begin submitting reports electronically with the next report that is due, once the electronic template has been available for at least 1 year. The EPA is currently working to develop the templates for 40 CFR part 63, subpart QQQQ. We are specifically taking comment on the content, layout, and overall design of the spreadsheet templates, which are presented as an Excel spreadsheet in the docket titled *Electronic Reporting for Subpart QQQQ Semiannual Reports.*[24] We plan to finalize a required reporting format with the final rule.

As stated in 40 CFR 63.4720(d)(2), the proposal also requires that notifications be reported electronically though CEDRI. Currently, there are no templates for notifications in CEDRI for this subpart. Therefore, the owner or operator must submit these notifications in portable document format (PDF).

Additionally, we have identified two broad circumstances in which electronic reporting extensions may be provided. In both circumstances, the decision to accept your claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible.

In 40 CFR 63.4720(d)(3), we address the situation where an extension may be warranted due to outages of the EPA's CDX or CEDRI which preclude you from accessing the system and submitting required reports. If either the CDX or CEDRI is unavailable at any time beginning 5 business days prior to the date that the submission is due, and the unavailability prevents the submission of a report by the required date, the facility may assert a claim of EPA system outage. We consider 5 business days prior to the reporting deadline to be an appropriate timeframe because if the system is down prior to this time, facilities will have 1 week to complete reporting once the system is back online. However, if the CDX or CEDRI is down during the week a report is due, we realize that this could greatly impact the ability to submit a required report on time. We will notify facilities about known outages as far in advance as possible by CHIEF Listserv notice, posting on the CEDRI Web site and posting on the CDX Web site so that facilities can plan accordingly and still meet the reporting deadline. However, if a planned or unplanned outage occurs and a facility believes that it will affect or it has affected compliance with an electronic reporting requirement, we have provided a process to assert such a claim.

In 40 CFR 63.4720(d)(4), we address the situation where an extension may be warranted due to a force majeure event, which is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents compliance with the requirement to submit a report electronically as required by this rule. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. If such an event occurs or is still occurring or if there are still linger effects of the event in the 5 business days prior to a submission deadline, we have provided a process to assert a claim of force majeure.

We are providing these potential extensions to protect facilities from noncompliance in cases when a facility cannot successfully submit a report by the reporting deadline for reasons outside of its control as described above. We are not providing an extension for other instances. Facility representatives should register for CEDRI far in advance of the initial compliance date in order to make sure that they can complete the identity proofing process prior to the initial compliance date. Additionally, we recommend developing reports early, in case any questions arise during the reporting process.

4. New EPA Test Method 326

We are proposing EPA Method 326 to address technical issues related to VOHAP content measured in certain surface coatings containing isocyanates. Because there is currently no EPA test method for isocyanate emissions, as part of this action, we are proposing specific isocyanate compound sample collection and analytical requirements as Method 326 of 40 CFR part 63, Appendix A. Method 326 is based on ''A Method for Measuring Isocyanates in Stationary Source Emissions'' which was proposed on December 8, 1997 (62 FR 64532) as Method 207, but was never promulgated. Method 326 does not significantly modify the sampling and analytical techniques of the previously proposed method, but includes additional QC procedures and associated performance criteria to ensure the overall quality of the measurement.

Method 326 is based on the EPA Method 5 sampling train employing a derivatizing reagent [1-(2-pyridyl) piperazine in toluene] in the impingers to immediately stabilize the isocyanate compounds upon collection. Collected samples are analyzed using high performance liquid chromatography and an appropriate detector under laboratory conditions sufficient to separate and quantify the isocyanate compounds.

The sampling and analytical techniques were validated at three sources according to EPA Method 301 (40 CFR 63, Appendix A) and the report of this validation, titled *Laboratory Development and Field Evaluation of a Generic Method for Sampling and Analysis of Isocyanates,* can be found in the docket. Under the proposed rule, this validated technique would be used to reliably collect and analyze gaseous isocyanate emissions from Surface Coatings of Wood Building Products for methylene diphenyl diisocyanate (MDI), methyl isocyanate (MI), hex methylene 1,6 diisocyanate (HDI), and 2,4 toluene diisocyanate (TDI). This method will also provide a tool for state and local governments, industry, and the EPA to reliably measure emissions of MDI, MI, HDI, and/or TDI from other types of stationary sources, such as pressed board, flexible foam, and spray booths.

5. Incorporation by Reference Under 1 CFR Part 51

The EPA is proposing regulatory text that includes IBR. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the following voluntary consensus standards (VCS) described in the amendments to 40 CFR 63.14:

- ANSI A135.4–2012, Basic Hardboard, IBR approved for 40 CFR 63.4781.
- ASTM D1475–90, Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products, IBR approved for 40 CFR 63.4741(b) and (c) and 63.4751(c).
- ASTM D1963–85 (1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C, IBR approved for 40 CFR 63.4741(a) and 63.4761(j).
- ASTM D2111–95 (2000), Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures, IBR approved for 40 CFR 63.4741(a) and 63.4761(j).

[24] *Electronic Reporting for Subpart QQQQ Semiannual Reports;* see Docket ID No. EPA–HQ–OAR–2016–0678.

- ASTM D2369–01, Test Method for Volatile Content of Coatings, IBR approved for 40 CFR 63.4741(a) and 63.4761(j).
- ASTM D2697–86 (Reapproved 1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for 40 CFR 63.4741(a) and (b) and 63.4761(j).
- ASTM D4840–99, Standard Guide for Sampling Chain-of-Custody Procedures, IBR approved for Method 326 in appendix A to part 63.
- ASTM D6093–97 (Reapproved 2003), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for 40 CFR 63.4741(a) and (b) and 63.4761(j).
- ASTM D6348–03 (Reapproved 2010), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2010, IBR approved for 40 CFR 63.4751(i) and 63.4766(b).

While the ASTM methods D2697–86 and D6093–97 were incorporated by reference when 40 CFR part 63, subpart QQQQ was originally promulgated (68 FR 31760), the methods are being cited in additional paragraphs in the proposed rule, requiring a revision to their IBR. The ANSI method and the other ASTM methods are being incorporated by reference for 40 CFR part 63, subpart QQQQ for the first time under this rulemaking.

6. Technical and Editorial Changes

The following are additional proposed changes that address technical and editorial corrections:

- Revised the monitoring requirements section in 40 CFR 63.4764 to clarify ongoing compliance provisions to address startup and shutdown periods when certain parameters cannot be met;
- Revised the recordkeeping requirements section in 40 CFR 63.4730 to include the requirement to record information on failures to meet the applicable standard;
- Revised the terminology in the delegation of authority section in 40 CFR 63.4780 to match the definitions in 40 CFR 63.90;
- Revised the references to several test method appendices; and
- Revised the General Provisions applicability table (Table 4 to 40 CFR part 63, subpart QQQQ) to align with those sections of the General Provisions that have been amended or reserved over time.

E. What compliance dates are we proposing?

The EPA is proposing that existing affected sources must comply with the amendments in this rulemaking no later than 180 days after the effective date of the final rule. The EPA is also proposing that affected sources that commence construction or reconstruction after May 16, 2018 must comply with all requirements of the subpart, including the amendments being proposed, no later than the effective date of the final rule or upon startup, whichever is later. All affected existing facilities would have to continue to meet the current requirements of 40 CFR part 63, subpart QQQQ until the applicable compliance date of the amended rule. The final action is not expected to be a ''major rule'' as defined by 5 U.S.C. 804(2), so the effective date of the final rule will be the promulgation date as specified in CAA section 112(d)(10). For existing sources, we are proposing two changes that would impact ongoing compliance requirements for 40 CFR part 63, subpart QQQQ. As discussed elsewhere in this preamble, we are proposing to add a requirement that notifications, performance test results, and the semiannual reports using the new template be submitted electronically. We are also proposing to change the requirements for SSM by removing the exemption from the requirements to meet the standard during SSM periods and by removing the requirement to develop and implement an SSM plan. Additionally, we are proposing to add a new compliance demonstration equation that adds flexibility to meeting the standard, but this change does not affect ongoing compliance. Our experience with similar industries that are required to convert reporting mechanisms, install necessary hardware, install necessary software, become familiar with the process of submitting performance test results electronically through the EPA's CEDRI, test these new electronic submission capabilities, reliably employ electronic reporting, and convert logistics of reporting processes to different time-reporting parameters, shows that a time period of a minimum of 90 days, and more typically 180 days, is generally necessary to successfully complete these changes. Our experience with similar industries further shows that this sort of regulated facility generally requires a time period of 180 days to read and understand the amended rule requirements; evaluate their operations to ensure that they can meet the standards during periods of startup and shutdown as defined in the rule and make any necessary adjustments; adjust parameter monitoring and recording systems to accommodate revisions; and update their operations to reflect the revised requirements. The EPA recognizes the confusion that multiple different compliance dates for individual requirements would create and the additional burden such an assortment of dates would impose. From our assessment of the timeframe needed for compliance with the entirety of the revised requirements, the EPA considers a period of 180 days to be the most expeditious compliance period practicable, and, thus, is proposing that existing affected sources be in compliance with all of this regulation's revised requirements within 180 days of the regulation's effective date. We solicit comment on this proposed compliance period, and we specifically request submission of information from sources in this source category regarding specific actions that would need to be undertaken to comply with the proposed amended requirements and the time needed to make the adjustments for compliance with any of the revised requirements. We note that information provided may result in changes to the proposed compliance date.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

There are currently 55 wood building product manufacturing facilities operating in the United States that conduct surface coating operations and are subject to the Surface Coating of Wood Building Products NESHAP. The 40 CFR part 63, subpart QQQQ affected source is the collection of all the items listed in 40 CFR 63.4682(b)(1) through (4) that are used for surface coating of wood building products. A new affected source is a completely new wood building products surface coating source where previously no wood building products surface coating source had existed.

B. What are the air quality impacts?

At the current level of control, emissions of total HAP are approximately 260 tpy. Compared to pre-MACT levels, this represents a significant reduction of HAP for the category. Prior to the development of the Surface Coating of Wood Building Products NESHAP, the EPA estimated HAP emissions to be 14,311 tons annually.[25] The proposed amendments will require all 55 major sources with equipment subject to the Wood Building Products Coating NESHAP to operate

[25] *National Emission Standards for Hazardous Air Pollutants (NESHAP) for the Wood Building Products (Surface Coating) Industry—Background Information for Proposed Standards;* EPA–453/R–00–003; May 2001.

without the SSM exemption. We were unable to quantify the specific emissions reductions associated with eliminating the SSM exemption. However, eliminating the SSM exemption will reduce emissions by requiring facilities to meet the applicable standard during SSM periods.

Indirect or secondary air emissions impacts are impacts that would result from the increased electricity usage associated with the operation of control devices (*i.e.,* increased secondary emissions of criteria pollutants from power plants). Energy impacts consist of the electricity and steam needed to operate control devices and other equipment that would be required under this proposed rule. The EPA expects no secondary air emissions impacts or energy impacts from this rulemaking.

For further information, see the memorandum titled *Cost Impacts of the Subpart QQQQ Residual Risk and Technology Review,* in the docket for this action.

C. What are the cost impacts?

We estimate that each facility in the source category will experience costs as a result of these proposed amendments that are estimated as part of the reporting and recordkeeping costs. Each facility will experience costs to read and understand the rule amendments. Costs associated with the elimination of the SSM exemption were estimated as part of the reporting and recordkeeping costs and include time for re-evaluating previously developed SSM record systems. Costs associated with the requirement to electronically submit notifications and semi-annual compliance reports using CEDRI were estimated as part of the reporting and recordkeeping costs and include time for becoming familiar with CEDRI and the reporting template for semi-annual compliance reports. The recordkeeping and reporting costs are presented in section V.III.C of this preamble.

The EPA estimates that one facility will be impacted from this proposed regulatory action. This facility will conduct an initial performance test to demonstrate compliance with the proposed alternative compliance equation, as proposed in their request for an alternative monitoring method. This initial performance test has a one-time cost of $22,000. The total estimated labor costs for the rule are summarized in the Supporting Statement for the ICR in the docket for this action. The estimated labor cost includes an estimated labor cost of $36,618 for all 55 affected facilities to become familiar with the proposed rule requirements. For further information, see the memorandum titled *Cost Impacts of the Subpart QQQQ Residual Risk and Technology Review,* in the docket for this action.

D. What are the economic impacts?

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a proposed rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a proposed rule.

For the one facility expected to conduct an initial performance test and become familiar with the proposed rule requirements, the costs associated with 40 CFR part 63, subpart QQQQ's proposed requirements are less than 0.001 percent of annual sales revenues. For the remaining 54 facilities, the costs associated with becoming familiar with the proposed rule requirements are also less than 0.001 percent of annual sales revenues. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

E. What are the benefits?

The EPA did not propose changes to the emission limit requirements and estimates the proposed changes to SSM, recordkeeping, reporting, and monitoring are not economically significant. Because these proposed amendments are not considered economically significant, as defined by Executive Order 12866 and because no emission reductions were estimated, we did not estimate any benefits from reducing emissions.

VI. Request for Comments

We solicit comments on all aspects of this proposed action. In addition to general comments on this proposed action, we are also interested in additional data that may improve the risk assessments and other analyses. We are specifically interested in receiving any improvements to the data used in the site-specific emissions profiles used for risk modeling. Such data should include supporting documentation in sufficient detail to allow characterization of the quality and representativeness of the data or information. Section VII of this preamble provides more information on submitting data.

VII. Submitting Data Corrections

The site-specific emissions profiles used in the source category risk and demographic analyses and instructions are available for download on the RTR website at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.* The data files include detailed information for each HAP emissions release point for the facilities in the source category.

If you believe that the data are not representative or are inaccurate, please identify the data in question, provide your reason for concern, and provide any ''improved'' data that you have, if available. When you submit data, we request that you provide documentation of the basis for the revised values to support your suggested changes. To submit comments on the data downloaded from the RTR website, complete the following steps:

1. Within this downloaded file, enter suggested revisions to the data fields appropriate for that information.
2. Fill in the commenter information fields for each suggested revision (*i.e.,* commenter name, commenter organization, commenter email address, commenter phone number, and revision comments).
3. Gather documentation for any suggested emissions revisions (*e.g.,* performance test reports, material balance calculations, *etc.*).
4. Send the entire downloaded file with suggested revisions in Microsoft® Access format and all accompanying documentation to Docket ID No. EPA–HQ–OAR–2016–0678 (through the method described in the **ADDRESSES** section of this preamble).
5. If you are providing comments on a single facility or multiple facilities, you need only submit one file for all facilities. The file should contain all suggested changes for all sources at that facility (or facilities). We request that all data revision comments be submitted in the form of updated Microsoft® Excel files that are generated by the Microsoft® Access file. These files are provided on the RTR website at *http://www3.epa.gov/ttn/atw/rrisk/rtrpg.html.*

VIII. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action and was, therefore, not submitted to the OMB for review.

B. Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action

because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. The ICR document that the EPA prepared has been assigned EPA ICR number 2034.07. You can find a copy of the ICR in the docket for this rule (Docket ID No. EPA–HQ–OAR–2016–0678), and it is briefly summarized here.

We are proposing changes to the paperwork requirements for the Surface Coating of Wood Building Products NESHAP in the form of eliminating the SSM reporting and SSM plan requirements, and requiring electronic submittal of all compliance reports (including performance test reports), and some notifications.

Respondents/affected entities: Respondents include wood building product manufacturing facilities with surface coating operations subject to the Surface Coating of Wood Building Products NESHAP.

Respondent's obligation to respond: Mandatory (authorized by section 114 of the CAA).

Estimated number of respondents: 55.

Frequency of response: The frequency of responses varies depending on the burden item. Responses include initial notifications, notification of compliance status, reports of periodic performance tests, and semiannual compliance reports.

Total estimated burden: The annual recordkeeping and reporting burden for this information collection, averaged over the first 3 years of this ICR, is estimated to total 19,600 labor hours per year. Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $1,418,000 per year in labor costs and an additional one-time cost of $22,000 for an initial performance test at one facility. Included in the $1,418,000 per year in labor cost estimate is a labor cost of $36,618 for all 55 facilities to become familiar with the proposed rule requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than June 15, 2018. The EPA will respond to any ICR-related comments in the final rule.

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, the impact of concern is any significant adverse economic impact on small entities. An agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, has no net burden or otherwise has a positive economic effect on the small entities subject to the rule. We conducted an Economic Impact analysis which is available in the docket for this proposal, EPA–HQ–OAR–2016–0678. For all the facilities affected by the proposal, including the small businesses, the costs associated with the proposed rule requirements are less than 0.001 percent of annual sales revenues. Our conclusion is that there are no significant economic impacts on a substantial number of small entities from these proposed amendments. We have, therefore, concluded that this action will have no net regulatory burden for all directly regulated small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

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

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

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. This proposed rule imposes requirements on owners and operators of wood building product surface coating facilities and not tribal governments. The EPA does not know of any wood building product surface coating facilities owned or operated by Indian tribal governments. However, if there are any, the effect of this rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to this action.

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

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action's health and risk assessments are contained in sections III and IV of this preamble and further documented in the risk report titled *Residual Risk Assessment for the Surface Coating of Wood Building Products Source Category in Support of the March 2018 Risk and Technology Review Proposed Rule,* in the docket for this action.

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

This action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA proposes to use ASTM D6348–03 (Reapproved 2010), ''Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy'' as an alternative to using

Method 320 under certain conditions and incorporate this alternative method by reference. Method 320 is proposed to be added for the measurement of organic HAP emissions if formaldehyde is a major organic HAP component of the surface coating exhaust stream. Also, instead of the current ASTM D 6348–12e1 standard, the ASTM D6348–03 (Reapproved 2010) standard is referenced in the Surface Coating of Wood Building Products NESHAP. The QC criteria in ASTM D6348–03 (Reapproved 2010) are more closely matched to the testing requirements in this NESHAP. Use of ASTM D6348–03 (Reapproved 2010) is defined in 40 CFR 63.4751(i)(4). ASTM D6348–03 (Reapproved 2010) is an extractive Fourier Transform Infrared Spectroscopy based field test method and is used to quantify gas phase concentrations of multiple target compounds in emission streams from stationary sources.

ANSI A135.4–2012 is reasonably available from the Composite Panel Association, 19465 Deerfield Avenue, Suite 306, Leesburg, VA 20176. The standard specifies requirements and test methods for water absorption, thickness swelling, modulus of rupture, tensile strength, surface finish, dimensions, squareness, edge straightness, and moisture content for five classes of hardboard, including tileboard, part of a subcategory in the standard.

The EPA also proposes to use ASTM D4840–99, ''Standard Guide for Sampling Chain-of-Custody Procedures,'' in Method 326 for its chain of custody procedures and incorporate this alternative method by reference. The ASTM D4840–99 guide contains a comprehensive discussion of potential requirements for a sample chain-of-custody program and describes the procedures involved in sample chain-of-custody. The purpose of ASTM D4840–99 procedures is to provide accountability for and documentation of sample integrity from the time samples are collected until the time samples are disposed. Method 326 is proposed to be added for the measurement of organic HAP emissions if isocyanate is a major organic HAP component of the surface coating exhaust stream.

The EPA proposes to use the following five VCS as alternatives to Method 24 for the determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings and incorporate these VCS by reference:

- ASTM D1963–85 (1996), ''Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C.'' This test method is used for the determination of the specific gravity of drying oils, varnishes, alkyd resins, fatty acids, and related materials.
- ASTM D2111–95 (2000), ''Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures.'' These test methods are used for the determination of the specific gravity of halogenated organic solvents and solvent admixtures.
- ASTM D2369–01, ''Test Method for Volatile Content of Coatings.'' This test method describes a procedure used for the determination of the weight percent volatile content of solvent-borne and waterborne coatings.
- ASTM D2697–86 (Reapproved 1998), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings.'' This test method is applicable to the determination of the volume of nonvolatile matter in coatings.
- ASTM D6093–97 (Reapproved 2003), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer.'' This test method is used for the determination of the percent volume nonvolatile matter in clear and pigmented coatings.

The ASTM standards are reasonably available from the American Society for Testing and Materials (ASTM), 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org/.*

While the EPA has identified another 18 VCS as being potentially applicable to this proposed rule, we have decided not to use these VCS in this rulemaking. The use of these VCS would not be practical due to lack of equivalency, documentation, validation date, and other import technical and policy considerations. See the memorandum titled *Voluntary Consensus Standard Results for National Emission Standards for Hazardous Air Pollutants: Surface Coating of Wood Building Products,* in the docket for this proposed rule for the reasons for these determinations.

Under 40 CFR 63.7(f) and 40 CFR 63.8(f) of subpart A of the General Provisions, a source may apply to the EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule or any amendments.

The EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable VCS and to explain why such standards should be used in this regulation.

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

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in section IV.B of this preamble and the technical report titled *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Wood Building Products Surface Coating Sources,* which is located in the public docket for this action.

We examined the potential for any EJ issues that might be associated with the source category, by performing a demographic analysis of the population close to the facilities. In this analysis, we evaluated the distribution of HAP-related cancer and noncancer risks from the Surface Coating of Wood Building Products NESHAP source category across different social, demographic, and economic groups within the populations living near facilities identified as having the highest risks. The methodology and the results of the demographic analyses are included in a technical report, *Risk and Technology Review—Analysis of Demographic Factors for Populations Living Near Wood Building Product Surface Coating Facilities,* available in the docket for this action.

The results of the Surface Coating of Wood Building Products NESHAP source category demographic analysis indicate that emissions from the source category expose approximately 800 people to a cancer risk at or above 1-in-1 million and no one exposed to a chronic noncancer TOSHI greater than 1. The specific demographic results indicate that the percentage of the population potentially impacted by emissions is greater than its corresponding national percentage for the minority population (84 percent for the source category compared to 38 percent nationwide), the African American population (75 percent for the source category compared to 12 percent nationwide) and for the population over age 25 without a high school diploma (25 percent for the source category compared to 14 percent nationwide). The proximity results (irrespective of risk) indicate that the population percentages for certain demographic categories within 5 km of source category emissions are greater than the

corresponding national percentage for those same demographics. The following demographic percentages for populations residing within close proximity to facilities with Surface Coating of Wood Building Products source category facilities are higher than the corresponding nationwide percentage: African American, ages 65 and up, over age 25 without a high school diploma, and below the poverty level.

The risks due to HAP emissions from this source category are low for all populations (*e.g.,* inhalation cancer risks are less than 6-in-1 million for all populations and noncancer HIs are less than 1). We do not expect this proposal to achieve significant reductions in HAP emissions. We have concluded that this proposal will not have unacceptable adverse human health or environmental effects on minority or low-income populations. The proposal does not affect the level of protection provided to human health or the environment. However, this proposal, if finalized, will provide additional benefits to these demographic groups by improving the compliance, monitoring, and implementation of the NESHAP.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Surface Coating of Wood Building Products, Reporting and recordkeeping requirements.

Dated: April 23, 2018.

E. Scott Pruitt,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

Subpart A—[Amended]

■ 2. Section 63.14 is amended by:

■ a. Redesignating paragraphs (i) through (s) as (j) through (t);

■ b. Redesignating paragraph (d) as (i);

■ c. Redesignating paragraphs (e) through (h) as (d) through (g);

■ d. Redesignating paragraph (c) as (h);

■ e. Adding new paragraph (c).;

■ f. Revising newly redesignated paragraph (g)(11);

■ g. Redesignating newly redesignated paragraphs (g)(60) through (g)(105) as (g)(64) through (g)(109);

■ h. Redesignating newly redesignated paragraphs (g)(24) through (g)(59) as (g)(27) through (g)(62);

■ i. Redesignating newly redesignated paragraphs (g)(20) through (g)(23) as (g)(22) through (g)(25);

■ j. Redesignating newly redesignated paragraphs (g)(18) through (g)(19) as (g)(19) through (g)(20);

■ k. Adding new paragraphs (g)(18), (21), (26) and (63); and

■ l. Revising newly redesignated paragraphs (g)(29), (77), and (82).

The revisions and additions read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(c) American National Standards Institute (ANSI), 25 W. 43rd Street, 4th Floor, New York, NY 10036, Telephone (212) 642–4980, and *http://www.ansi.org.*

(1) ANSI A135.4–2012, Basic Hardboard, approved June 8, 2012, IBR approved for § 63.4781.

(2) [Reserved]

* * * * *

(g) * * *

(11) ASTM D1475–90, Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products, IBR approved for appendix A to subpart II and §§ 63.4741(b) and (c) and 63.4751(c).

* * * * *

(18) ASTM D1963–85 (1996), Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25 °C, approved 1996, IBR approved for §§ 63.4741(a) and 63.4761(j).

* * * * *

(21) ASTM D2111–95 (2000), Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures, approved 2000, IBR approved for §§ 63.4741(a) and 63.4761(j).

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(26) ASTM D2369–01, Test Method for Volatile Content of Coatings, approved 2001, IBR approved for §§ 63.4741(a) and 63.4761(j).

* * * * *

(29) ASTM D2697–86 (Reapproved 1998), Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings, IBR approved for §§ 63.3161(f), 63.3521(b), 63.3941(b), 63.4141(b), 63.4741(a) and (b), 63.4761(j), 63.4941(b), and 63.5160(c).

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(63) ASTM D4840–99, Standard Guide for Sampling Chain-of-Custody Procedures, approved 1999, IBR approved for Method 326 in appendix A to part 63.

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(77) ASTM D6093–97 (Reapproved 2003), Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer, IBR approved for §§ 63.3161, 63.3521, 63.3941, 63.4141, 63.4741(a) and (b), 63.4761(j), 63.4941(b), and 63.5160(c).

* * * * *

(82) ASTM D6348–03 (Reapproved 2010), Standard Test Method for Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform Infrared (FTIR) Spectroscopy, including Annexes A1 through A8, Approved October 1, 2010, IBR approved for §§ 63.1571(a), 63.4651(i), 63.4766(b), Tables 4 and 5 to subpart JJJJJ, tables 4 and 6 to subpart KKKKK, tables 1, 2, and 5 to subpart UUUUU and appendix B to subpart UUUUU.

* * * * *

Subpart QQQQ—[Amended]

■ 3. Section 63.4683 is amended by revising paragraphs (a) and (b) to read as follows:

§ 63.4683 When do I have to comply with this subpart?

* * * * *

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1), (2) or (3) of this section:

(1) If the initial startup of your new or reconstructed affected source is before May 28, 2003, the compliance date is May 28, 2003; except that the compliance date for the revised requirements promulgated at §§ 63.4683, 63.4700, 63.4710, 63.4720, 63.4730, 63.4741, 63.4751, 63.4761, 63.4763, 63.4764, 63.4766, 63.4781, Table 4 of this subpart QQQQ, and Appendix A of this subpart QQQQ published on [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] is [DATE 180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(2) If the initial startup of your new or reconstructed affected source occurs after May 28, 2003, the compliance date is the date of initial startup of your affected source; except that if the initial startup of your new or reconstructed affected source occurs after May 28, 2003, but on or before May 16, 2018, the compliance date for the revised requirements promulgated at §§ 63.4683, 63.4700, 63.4710, 63.4720, 63.4730, 63.4741, 63.4751, 63.4761, 63.4763, 63.4764, 63.4766, 63.4781,

Table 4 of this subpart QQQQ, and Appendix A of this subpart QQQQ published on [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] is [DATE 180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

(3) If the initial startup of your new or reconstructed affected source occurs after May 16, 2018, the compliance date is [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] or the date of startup, whichever is later.

(b) For an existing affected source, the compliance date is the date 3 years after May 28, 2003, except that the compliance date for the revised requirements promulgated at §§ 63.4683, 63.4700, 63.4710, 63.4720, 63.4730, 63.4741, 63.4751, 63.4761, 63.4763, 63.4764, 63.4766, 63.4781, Table 4 of this subpart QQQQ, and Appendix A of this subpart QQQQ published on [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] is [DATE 180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**].

■ 4. Section 63.4700 is amended by:

■ a. Revising the introductory text of paragraph (a)(2), paragraphs (a)(2)(i) and (ii);

■ b. Adding paragraph (a)(3); and

■ c. Revising paragraphs (b) and (d).

The revisions and addition read as follows:

§ 63.4700 What are my general requirements for complying with this subpart?

(a) * * *

(2) Any coating operation(s) at existing sources for which you use the emission rate with add-on controls option, as specified in § 63.4691(c), must be in compliance with the applicable emission limitations as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) Prior to [DATE 181 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the coating operation(s) must be in compliance with the applicable emission limit in § 63.4690 at all times, except during periods of startup, shutdown, and malfunction (SSM). After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the coating operation(s) must be in compliance with the applicable emission limit in § 63.4690 at all times.

(ii) Prior to [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the coating operation(s) must be in compliance with the applicable operating limits for emission capture systems and add-on control devices required by § 63.4692 at all times, except during periods of SSM, and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j). After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], the coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4692 at all times, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j).

* * * * *

(3) For new or reconstructed sources with initial startup after May 16, 2018, any coating operation(s) for which you use the emission rate with add-on controls option, as specified in § 63.4691(c), must be in compliance with the applicable emission limitations and work practice standards as specified in paragraphs (a)(3)(i) through (iii) of this section.

(i) The coating operation(s) must be in compliance with the applicable emission limit in § 63.4690 at all times.

(ii) The coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4692 at all times, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4761(j).

(iii) The coating operation(s) must be in compliance with the work practice standards in § 63.4693 at all times.

(b) For existing sources as of May 16, 2018, prior to [DATE 181 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], you must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i). After [DATE 180 DAYS AFTER PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] for such existing sources and after [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] for new or reconstructed sources, you must always operate and maintain your affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions. The general duty to minimize emissions does not require you to make any further efforts to reduce emissions if levels required by the applicable standard have been achieved. Determination of whether a source is operating in compliance with operation and maintenance requirements will be based on information available to the Administrator which may include, but is not limited to, monitoring results, review of operation and maintenance procedures, review of operation and maintenance records, and inspection of the source.

* * * * *

(d) For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], if your affected source uses an emission capture system and add-on control device, you must develop a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3). The SSMP must address startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The SSMP must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures.

■ 5. Section 63.4710 is amended by revising paragraph (c)(8)(ii) to read as follows:

§ 63.4710 What notifications must I submit?

* * * * *

(c) * * *

(8) * * *

(ii) For the emission rate without add-on controls option, provide the calculation of the total mass of organic HAP emissions for each month; the calculation of the total volume of coating solids used each month; and the calculation of the 12-month organic HAP emission rate, using Equations 1 and 1A (or 1A-alt) through 1C, 2, and 3, respectively, of § 63.4751.

* * * * *

■ 6. Section 63.4720 is amended by:

■ a. Revising paragraph (a)(6)(ii) and the introductory text of paragraph (a)(7);

■ b. Redesignating paragraphs (a)(7)(i) through (a)(7)(xiv) as paragraphs (a)(7)(i)(A) through (a)(7)(i)(N);

■ c. Adding new paragraph (a)(7)(i) introductory text;

■ d. Revising paragraph (a)(7)(ii) and the introductory text of paragraph (c); and

■ e. Adding paragraph (d).

The revisions and additions read as follows:

§ 63.4720 What reports must I submit?

(a) * * *

(6) * * *

(ii) The calculations used to determine the 12-month organic HAP emission rate for the compliance period in which the deviation occurred. You must provide the calculations for Equations 1, 1A (or 1A-alt) through 1C, 2, and 3 in § 63.4751; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4). You do not need to submit background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

* * * * *

(7) *Deviations: emission rate with add-on controls option.* You must be in compliance with the emission limitations in this subpart as specified in paragraphs (7)(i) and (ii) of this section.

(i) For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], if you used the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i)(A) through (N) of this section. This includes periods of SSM during which deviations occurred.

* * * * *

(ii) After [DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] for new and reconstructed sources and after [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] for existing sources, if you used the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(ii)(A) through (M) of this section.

(A) The beginning and ending dates of each compliance period during which the 12-month organic HAP emission rate exceeded the applicable emission limit in § 63.4690.

(B) The calculations used to determine the 12-month organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4751; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751; the calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices, using Equations 1 and 1A through 1D of § 63.4761, and Equations 2, 3, and 3A through 3C of § 63.4761, as applicable; the calculation of the total mass of organic HAP emissions each month, using Equation 4 of § 63.4761; and the calculation of the 12-month organic HAP emission rate, using Equation 5 of § 63.4761. You do not need to submit the background data supporting these calculations (*e.g.,* information provided by materials suppliers or manufacturers, or test reports).

(C) A brief description of the CPMS.

(D) The date of the latest CPMS certification or audit.

(E) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.

(F) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).

(G) The date and time period of each deviation from an operating limit in Table 3 to this subpart, date and time period of any bypass of the add-on control device.

(H) A summary of the total duration of each deviation from an operating limit in Table 3 to this subpart, each bypass of the add-on control device during the semiannual reporting period, and the total duration as a percent of the total source operating time during that semiannual reporting period.

(I) A breakdown of the total duration of the deviations from the operating limits in Table 3 to this subpart and bypasses of the add-on control device during the semiannual reporting period by identifying deviations due to control equipment problems, process problems, other known causes, and other unknown causes; a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

(J) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.

(K) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.

(L) For each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation.

(M) A statement of the cause of each deviation.

* * * * *

(c) *SSM reports.* For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], if you used the emission rate with add-on controls option and you had an SSM during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

* * * * *

(d) *Electronic reporting.* (1) Within 60 days after the date of completing each performance test (as defined in § 63.2) required by this subpart, the owner or operator must submit the results of the performance test following the procedure specified in either paragraph (d)(1)(i) or (ii) of this section.

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test, the owner or operator must submit the results of the performance test to the EPA via CEDRI. (CEDRI can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov/*).) Performance test data must be submitted in a file format generated using the EPA's ERT or an alternate electronic file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website. If the owner or operator claims that some of the performance test information being submitted is confidential business information (CBI), the owner or operator must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAPQS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham,

NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, the owner or operator must submit the results of the performance test to the Administrator at the appropriate address listed in § 63.13 unless the Administrator agrees to or specifies an alternative reporting method.

(2) You must submit notifications and semiannual compliance reports to the EPA via the CEDRI. (CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/).*) You must use the appropriate electronic report in CEDRI for this subpart or an alternative electronic file format consistent with the XML schema listed on the CEDRI website (*https://www.epa.gov/electronic-reporting-air-emissions/compliance-and-emissions-data-reporting-interface-cedri*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, you must submit the report to the Administrator at all the appropriate addresses listed in § 63.13. Once the reporting template has been available in CEDRI for 1 year, you must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(3) If you are required to electronically submit a report through CEDRI in the EPA's CDX, and due to a planned or actual outage of either the EPA's CEDRI or CDX systems within the period of time beginning 5 business days prior to the date that the submission is due, you will be or are precluded from accessing CEDRI or CDX and submitting a required report within the time prescribed, you may assert a claim of EPA system outage for failure to timely comply with the reporting requirement. You must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description identifying the date, time and length of the outage; a rationale for attributing the delay in reporting beyond the regulatory deadline to the EPA system outage; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the report must be submitted electronically as soon as possible after the outage is resolved. The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(4) If you are required to electronically submit a report through CEDRI in the EPA's CDX and a force majeure event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning 5 business days prior to the date the submission is due, the owner or operator may assert a claim of force majeure for failure to timely comply with the reporting requirement. For the purposes of this section, a force majeure event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents you from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage). If you intend to assert a claim of force majeure, you must submit notification to the Administrator in writing as soon as possible following the date you first knew, or through due diligence should have known, that the event may cause or caused a delay in reporting. You must provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in reporting beyond the regulatory deadline to the force majeure event; describe the measures taken or to be taken to minimize the delay in reporting; and identify a date by which you propose to report, or if you have already met the reporting requirement at the time of the notification, the date you reported. In any circumstance, the reporting must occur as soon as possible after the force majeure event occurs. The decision to accept the claim of force majeure and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

■ 7. Section 63.4730 is amended by:

■ a. Revising paragraph (c)(3) and the introductory text of paragraph (k);

■ b. Redesignating paragraphs (k)(1) through (4) as paragraphs (k)(1)(i) through (iv);

■ c. Adding new introductory text of paragraph (k)(1) and new paragraph (k)(2);

■ d. Redesignating paragraphs (k)(5)(i) through (iii) as paragraphs (k)(1)(v)(A) through (C);

■ e. Redesignating introductory text of paragraph (k)(5) as introductory text of paragraph (k)(1)(v) and revising the newly redesignated paragraph;

■ f. Redesignating paragraphs (k)(6)(i) and (ii) as paragraphs (k)(1)(vi)(A) and (B);

■ g. Redesignating introductory text of paragraph (k)(6) as introductory text of paragraph (k)(1)(vi) and revising the newly redesignated paragraph; and

■ h. Redesignating paragraphs (k)(7) and (8) as paragraphs (k)(1)(vii) and (viii).

The revisions and additions read as follows:

§ 63.4730 What records must I keep?

* * * * *

(c) * * *

(3) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners, and cleaning materials used each month, using Equations 1, 1A (or 1A-alt) through 1C, and 2 of § 63.4751; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4751(e)(4); the calculation of the total volume of coating solids used each month, using Equation 2 of § 63.4751; and the calculation of each 12-month organic HAP emission rate, using Equation 3 of § 63.4751.

* * * * *

(k) If you use the emission rate with add-on controls option, you must keep the records specified in paragraphs (k)(1) through (2) of this section.

(1) For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**]:

* * * * *

(v) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4764 and 63.4765(b) through (e), including the records specified in paragraphs (k)(1)(v)(A) through (C) of this section that apply to you.

* * * * *

(vi) The records specified in paragraphs (k)(1)(vi)(A) and (B) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4766.

* * * * *

(2) After [DATE of PUBLICATION OF FINAL RULE IN THE **FEDERAL**

REGISTER] for new and reconstructed sources and after [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**] for existing sources:

(i) The records required to show continuous compliance with each operating limit specified in Table 3 to this subpart that applies to you.

(ii) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4765(a).

(iii) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4764 and 63.4765(b) through (e), including the records specified in paragraphs (k)(2)(iii)(A) through (C) of this section that apply to you.

(A) *Records for a liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or F of appendix M to 40 CFR part 51 for each material used in the coating operation, and the total TVH for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(B) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(C) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4765(e), if applicable.

(iv) The records specified in paragraphs (k)(2)(iv)(A) and (B) of this section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4766.

(A) Records of each add-on control device performance test conducted according to §§ 63.4764 and 63.4766.

(B) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(v) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4767 and to document compliance with the operating limits as specified in Table 3 to this subpart.

(vi) A record of the work practice plan required by § 63.4693, and documentation that you are implementing the plan on a continuous basis.

■ 8. Section 63.4741 is amended by revising paragraph (a)(2), the defined terms ''$m_{volatiles}$'' and ''D_{avg}'' in Equation 1 in the introductory text of paragraph (b)(3), and paragraph (c) to read as follows:

§ 63.4741 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(a) * * *

(2) *Method 24 (appendix A–7 to 40 CFR part 60).* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. (Note: Method 24 is not appropriate for those coatings with a water content that would result in an effective detection limit greater than the applicable emission limit.) One of the voluntary consensus standards in paragraphs (a)(2)(i) through (v) may be used as an alternative to using Method 24.

(i) ASTM Method D1963–85 (1996), ''Standard Test Method for Specific Gravity of Drying Oils, Varnishes, Resins, and Related Materials at 25/25°C,'' (incorporated by reference, see § 63.14);

(ii) ASTM Method D2111–95 (2000), ''Standard Test Methods for Specific Gravity of Halogenated Organic Solvents and Their Admixtures,'' (incorporated by reference, see § 63.14);

(iii) ASTM Method D2369–01, ''Test Method for Volatile Content of Coatings,'' (incorporated by reference, see § 63.14);

(iv) ASTM Method D2697–86 (1998), ''Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings,'' (incorporated by reference, see § 63.14); and

(v) ASTM Method D6093–97 (Reapproved 2003), ''Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer,'' (incorporated by reference, see § 63.14).

* * * * *

(b) * * *

(3) * * *

$m_{volatiles}$ = Total volatile matter content of the coating, including HAP, volatile organic compounds (VOC), water, and exempt compounds, determined according to Method 24 in appendix A–7 of 40 CFR part 60, grams volatile matter per liter coating.

D_{avg} = Average density of volatile matter in the coating, grams volatile matter per liter volatile matter, determined from test results using ASTM Method D1475–90, ''Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products,'' (incorporated by reference, see § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and other information sources, the test results will take precedence.

(c) *Determine the density of each coating.* Determine the density of each coating used during the compliance period from test results using ASTM Method D1475–90, ''Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products,'' (incorporated by reference, see § 63.14), or information from the supplier or manufacturer of the material. If there is disagreement between ASTM Method D1475–90 test results and the supplier's or manufacturer's information, the test results will take precedence.

* * * * *

■ 9. Section 63.4751 is amended by revising paragraph (c) and the defined term ''A'' in Equation 1 in the introductory text of paragraph (e) and adding paragraph (i) to read as follows:

§ 63.4751 How do I demonstrate initial compliance with the emission limitations?

* * * * *

(c) *Determine the density of each material.* Determine the density of each

coating, thinner, and cleaning material used during each month from test results using ASTM Method D1475–90, ''Standard Test Method for Density of Paint, Varnish Lacquer, and Related Products,'' (incorporated by reference, see § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475–90 test results and such other information sources, the test results will take precedence.

* * * * *

(e) * * *

A = Total mass of organic HAP in the coatings used during the month, grams, as calculated in Equation 1A (or 1A-alt) of this section.

* * * * *

(i) *Alternative compliance demonstration.* As an alternative to paragraph (h) of this section, you may demonstrate initial compliance by conducting a performance test using Method 25A of appendix A–7 to 40 CFR part 60 or Method 320 or 326 of appendix A to 40 CFR part 63 for formaldehyde or isocyanates respectively to obtain an organic HAP emission factor (EF). The voluntary consensus standard ASTM D6348–03 (incorporated by reference, see § 63.14) may be used as an alternative to using Method 320 under the conditions specified in paragraphs (i)(4)(A) and (B) of this section.

(1) You must also calculate the mass of organic HAP emitted from the coatings used during the month using Equation 1A-alt of this section:

$$A = \sum_{i=1}^{m} (Vol_{c,i})(D_{c,i})(W_{c,i})(EF_{c,i}) \qquad (Eq. 1A - alt)$$

Where:

A = Total mass of organic HAP in the coatings used during the month, grams.

$Vol_{c,i}$ = Total volume of coating, i, used during the month, liters.

$D_{c,j}$ = Density of coating, i, grams coating per liter of coatings.

$W_{c,i}$ = Mass fraction of organic HAP in coating, i, grams organic HAP per gram coating.

$EF_{c,i}$ = Organic HAP emission factor (three run average from performance testing, evaluated as proportion of mass organic HAP emitted to mass of organic HAP in the coatings used during the performance test).

m = Number of different coatings used during the month.

(2) Calculate the organic HAP emission rate for the 12-month compliance period, grams organic HAP per liter coating solids used, using Equation 3 of this section.

(3) The organic HAP emission rate for the initial 12-month compliance period, calculated using Equation 3 of this section, must be less than or equal to the applicable emission limit in § 63.4690. You must keep all records as required by §§ 63.4730 and 63.4731. As part of the Notification of Compliance Status required by § 63.4710, you must identify the coating operation(s) for which you used the emission rate without add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4690, determined according to this section.

(4) If ASTM D6348–03 is used, the conditions specified in paragraphs (i)(4)(i) and (ii) must be met.

(i) Test plan preparation and implementation in the Annexes to ASTM D6348–03, sections A1 through A8 are mandatory.

(ii) In ASTM D6348–03 Annex A5 (Analyte Spiking Technique), the percent (%) R must be determined for each target analyte (Equation A5.5 of ASTM D6348–03). In order for the test data to be acceptable for a compound, %R must be between 70 and 130 percent. If the %R value does not meet this criterion for a target compound, the test data are not acceptable for that compound, and the test must be repeated for that analyte following adjustment of the sampling and/or analytical procedure before the retest. The %R value for each compound must be reported in the test report, and all field measurements must be corrected with the calculated %R value for that compound using the following equation: Reported Result = (Measured Concentration in the Stack × 100)/%R.

■ 10. Section 63.4761 is amended by revising paragraph (j)(3) to read as follows:

§ 63.4761 How do I demonstrate initial compliance?

* * * * *

(j) * * *

(3) Determine the mass fraction of volatile organic matter for each coating, thinner, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, grams volatile organic matter per gram coating. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A–7, one of the voluntary consensus standards specified in § 63.4741(a)(2)(i) through (v) (incorporated by reference, see § 63.14), or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A–7, or an approved alternative method, the test method results will take precedence unless after consultation, a regulated source could demonstrate to the satisfaction of the enforcement agency that the formulation data were correct.

* * * * *

■ 11. Section 63.4763 is amended by revising paragraph (h) to read as follows:

§ 63.4763 How do I demonstrate continuous compliance with the emission limitations?

(h) For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of SSM of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with § 63.6(e)(1). The Administrator will determine whether deviations that occur during a period you identify as an SSM are violations, according to the provisions in § 63.6(e).

■ 12. Section 63.4764 is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 63.4764 What are the general requirements for performance tests?

(a) * * *

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, and nonoperation do not constitute representative conditions. You may not

conduct performance tests during periods of malfunction. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation. Upon request, you shall make available to the Administrator such records as may be necessary to determine the conditions of performance tests.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. Representative conditions exclude periods of startup and shutdown. You may not conduct performance tests during periods of malfunction. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

* * * * *

■ 13. Section 63.4766 is amended by:

■ a. Revising paragraphs (a)(1) through (4) and (b);

■ b. Adding paragraphs (b)(4) and (5); and

■ c. Revising paragraphs (d) and (f).

The revisions and additions read as follows:

§ 63.4766 How do I determine the add-on control device emission destruction or removal efficiency?

* * * * *

(a) * * *

(1) Use Method 1 or 1A of appendix A–1 to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, or 2F of appendix A–1 to 40 CFR part 60, or Method 2G of appendix A–2 to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A–2 to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight. You may also use as an alternative to Method 3B, the manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas in ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus]'' (incorporated by reference, see § 63.14).

(4) Use Method 4 of appendix A–3 to 40 CFR part 60 to determine stack gas moisture.

* * * * *

(b) Measure total gaseous organic mass emissions as carbon at the inlet and outlet of the add-on control device simultaneously, using Method 25 or 25A of appendix A–7 to 40 CFR part 60, and Method 320 or 326 of appendix A to 40 CFR part 63, as specified in paragraphs (b)(1) through (5) of this section. The voluntary consensus standard ASTM D6348–03 (incorporated by reference in § 63.14) may be used as an alternative to using Method 320 if the conditions specified in § 63.4751(i)(4)(A) and (B) are met. You must use the same method for both the inlet and outlet measurements.

(1) Use Method 25 of appendix A–7 to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A of appendix A–7 to 40 CFR part 60 if the add-on control device is an oxidizer, and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use Method 25A of appendix A–7 to 40 CFR part 60 if the add-on control device is not an oxidizer.

(4) If Method 25A is used, and if formaldehyde is a major organic HAP component of the surface coating exhaust stream, use Method 320 of appendix A to 40 CFR part 63 or ASTM D6348–03 (incorporated by reference in § 63.14) to determine formaldehyde concentration.

(5) In addition to Method 25 or 25A, use Method 326 of appendix A to 40 CFR part 63 if isocyanate is a major organic HAP component of the surface coating exhaust stream.

* * * * *

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions. The mass emission rates for formaldehyde and individual isocyanate must be determined separately.

$$M_f = Q_{sd} C_c MW (41.6)(10^{-6}) \qquad (Eq. 1)$$

Where:

M_f = Total gaseous organic emissions mass flow rate, grams per hour (h).

MW = Molecular weight of analyte of interest (12 for Method 25 and 25A results).

C_c = Concentration of organic compounds in the vent gas (as carbon if determined by Method 25 or Method 25A), parts per million by volume (ppmv), dry basis.

Q_{sd} = Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

41.6 = Conversion factor for molar volume, gram-moles per cubic meter (mol/m^3) (@ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

* * * * *

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section. Destruction and removal efficiency must be determined independently for formaldehyde and isocyanates.

■ 14. Section 63.4781 is amended by revising paragraph (3) under the definition of ''deviation'' and revising the definition of ''tileboard'' to read as follows:

§ 63.4781 What definitions apply to this subpart?

* * * * *

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

* * * * *

(3) For existing sources until [DATE 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **FEDERAL REGISTER**], if your affected source fails to meet any emission limit, or operating limit, or work practice standard in this subpart during SSM, regardless of whether or not such failure is permitted by this subpart.

* * * * *

Tileboard means hardboard that meets the specifications for Class I given by the standard ANSI A135.4–2012 (incorporated by reference, see § 63.14) as approved by the American National

Standards Institute. The standard specifies requirements and test methods for water absorption, thickness swelling, modulus of rupture, tensile strength, surface finish, dimensions, squareness, edge straightness, and moisture content for five classes of hardboard. Tileboard is also known as Class I hardboard or tempered hardboard.

■ 15. Table 4 to subpart QQQQ is amended to read as follows:

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 4 TO SUBPART QQQQ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63

Citation	Subject	Applicable to subpart QQQQ	Explanation
§ 63.1(a)(1)–(14)	General Applicability	Yes.	
§ 63.1(b)(1)–(3)	Initial Applicability Determination	Yes	Applicability to subpart QQQQ is also specified in § 63.4681.
§ 63.1(c)(1)	Applicability After Standard Established	Yes.	
§ 63.1(c)(2)	Applicability of Permit Program for Area Sources	No	Area sources are not subject to subpart QQQQ.
§ 63.1(c)(3)	[Reserved]	No.	
§ 63.1(c)(4)–(5)	Extensions and Notifications	Yes.	
§ 63.1(d)	[Reserved]	No.	
§ 63.1(e)	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2	Definitions	Yes	Additional definitions are specified in § 63.4781.
§ 63.3(a)–(c)	Units and Abbreviations	Yes.	
§ 63.4(a)(1)–(5)	Prohibited Activities	Yes.	
§ 63.4(b)–(c)	Circumvention/Severability	Yes.	
§ 63.5(a)	Construction/Reconstruction	Yes.	
§ 63.5(b)(1)–(6)	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(c)	[Reserved]	No.	
§ 63.5(d)	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e)	Approval of Construction/Reconstruction	Yes.	
§ 63.5(f)	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a)	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7)	Compliance Dates for New and Reconstructed Sources.	Yes	§ 63.4683 specifies compliance dates.
§ 63.6(c)(1)–(5)	Compliance Dates for Existing Sources	Yes	§ 63.4683 specifies compliance dates.
§ 63.6(d)	[Reserved]	No.	
§ 63.6(e)(1)(i)	General Duty to Minimize Emissions	No	See § 63.4700(b) for general duty requirement.
§ 63.6(e)(1)(ii)	Requirement to Correct Malfunctions ASAP	No.	
§ 63.6(e)(1)(iii)	Operation and Maintenance Requirements Enforceable Independent of Emissions Limitations.	Yes.	
§ 63.6(e)(2)	[Reserved]	No.	
§ 63.6(e)(3)	SSMP	No.	
§ 63.6(f)(1)	Compliance Except During SSM	No.	
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Yes.	
§ 63.6(g)(1)–(3)	Use of an Alternative Standard	Yes.	
§ 63.6(h)	Compliance with Opacity/Visible Emissions Standards.	No	Subpart QQQQ does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16)	Extension of Compliance	Yes.	
§ 63.6(j)	Presidential Compliance Exemption	Yes.	
§ 63.7(a)(1)	Performance Test Requirements—Applicability	Yes	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4764, 63.4765, and 63.4766.
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standard. § 63.4760 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required By the Administrator	Yes.	
§ 63.7(a)(4)	Notification of Delay in Performance Testing Due to Force Majeure.	Yes.	
§ 63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.7(e)(1)	Performance Testing	Yes.	
§ 63.7(f)	Performance Test Requirements—Use of Alternative Test Method.	Yes	Applies to all test methods except those used to determine capture system efficiency.

TABLE 4 TO SUBPART QQQQ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63—Continued

Citation	Subject	Applicable to subpart QQQQ	Explanation
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standard.
§ 63.8(a)(1)–(2)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for monitoring are specified in § 63.4768.
§ 63.8(a)(3)	[Reserved]	No.	
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart QQQQ does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)	Continuous Monitoring System (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.4768.
§ 63.8(c)(1)(i)	General Duty to Minimize Emissions and CMS Operation.	No.	
§ 63.8(c)(1)(ii)	Operation and Maintenance of CMS	Yes.	
§ 63.8(c)(1)(iii)	Requirement to Develop SSM Plan for CMS	No.	
§ 63.8(c)(2)–(3)	Monitoring System Installation	Yes.	
§ 63.8(c)(4)	CMSs	No	§ 63.4768 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart QQQQ does not have opacity for visible emission standards.
§ 63.8(c)(6)	CMS Requirements	Yes	§ 63.4768 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods Reporting	No	§ 63.4720 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	§§ 63.4767 and 63.4768 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standard.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart QQQQ does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	§ 63.4710 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4730 and 63.4731.
§ 63.10(b)(2)(i)–(ii)	Recordkeeping of Occurrence and Duration of Startups and Shutdowns.	No.	
§ 63.10(b)(2)(iii)	Recordkeeping Relevant to CMS	Yes.	
§ 63.10(b)(2)(iv)–(v)	Recordkeeping Relevant to SSM	No.	
§ 63.10(b)(2)(vi)–(xi)	Recordkeeping for CMS Malfunctions	Yes.	
§ 63.10(b)(2)(xii)	Records	Yes.	
§ 63.10(b)(2)(xiii)		No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2)(xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	

TABLE 4 TO SUBPART QQQQ OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQ OF PART 63—Continued

Citation	Subject	Applicable to subpart QQQQ	Explanation
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)		No	The same records are required in § 63.4720(a)(7).
§ 63.10(c)(9)–(14)		Yes.	
§ 63.10(c)(15)	Use of SSM Plan	No.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4720.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4720(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart QQQQ does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	SSM Reports	No	Malfunctions shall be reported based on compliance option under § 63.4720(a)(5–7).
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart QQQQ does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports	No	§ 63.4720(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart QQQQ does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart QQQQ does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes	Test Methods ANSI A135.4–2012, ANSI/ASME PTC 19.10–1981, Part 10, ASTM D1475–90, ASTM D1963–85, ASTM D2111–95 (2000), ASTM D2369–01, ASTM D2697–86 (Reapproved 1998), ASTM D4840–99, ASTM D6093–97 (Reapproved 2003), and ASTM D6348–03 (Reapproved 2010) (incorporated by reference, see § 63.14).
§ 63.15	Availability of Information/Confidentiality	Yes.	
§ 63.16	Requirements for Performance Track Member Facilities.	Yes.	

■ 16. Appendix A to Part 63 is amended to add Method 326 to read as follows:

Method 326—Method for Determination of Isocyanates in Stationary Source Emissions

1.0 Scope and Application

This method is applicable to the collection and analysis of isocyanate compounds from the emissions associated with manufacturing processes. This method is not inclusive with respect to specifications (*e.g.,* equipment and supplies) and sampling procedures essential to its performance. Some material is incorporated by reference from other EPA methods. Therefore, to obtain reliable results, persons using this method should have a thorough knowledge of at least Method 1, Method 2, Method 3, and Method 5 found in Appendices A–1, A–2, and A–3 in Part 60 of this title.

1.1 Analytes. This method is designed to determine the mass emission of isocyanates being emitted from manufacturing processes. The following is a table (Table 1–1) of the isocyanates and the manufacturing process at which the method has been evaluated:

TABLE 326–1—ANALYTES

Compound's name	CAS No.	Detection limit (ng/m^3) [a]	Manufacturing process
2,4-Toluene Diisocyanate (TDI)	584–84–9	106	Flexible Foam Production.
1,6-Hexamethylene Diisocyanate (HDI)	822–06–0	396	Paint Spray Booth.
Methylene Diphenyl Diisocyanate (MDI)	101–68–8	112	Pressed Board Production.
Methyl Isocyanate(MI)	624–83–0	228	Not used in production.

[a] Estimated detection limits are based on a sample volume of 1 m^3 and a 10-ml sample extraction volume.

1.2 Applicability. Method 326 is a method designed for determining compliance with National Emission Standards for Hazardous Air Pollutants (NESHAP). Method 326 may also be specified by New Source Performance

Standards (NSPS), State Implementation Plans (SIPs), and operating permits that require measurement of isocyanates in stationary source emissions, to determine compliance with an applicable emission standard or limit.

1.3 Data Quality Objectives (DQO). The principal objective is to ensure the accuracy of the data at the actual emissions levels and in the actual emissions matrix encountered. To meet this objective, method performance tests are required and NIST-traceable calibration standards must be used.

2.0 Summary of Method

2.1 Gaseous and/or aerosol isocyanates are withdrawn from an emission source at an isokinetic sampling rate and are collected in a multicomponent sampling train. The primary components of the train include a heated probe, three impingers containing derivatizing reagent in toluene, an empty impinger, an impinger containing charcoal, and an impinger containing silica gel.

2.2 The liquid impinger contents are recovered, concentrated to dryness under vacuum, brought to volume with acetonitrile (ACN) and analyzed with a high pressure liquid chromatograph (HPLC).

3.0 Definitions [Reserved]

4.0 Interferences

4.1 The greatest potential for interference comes from an impurity in the derivatizing reagent, 1-(2-pyridyl)piperazine (1,2-PP). This compound may interfere with the resolution of MI from the peak attributed to unreacted 1,2-PP.

4.2 Other interferences that could result in positive or negative bias are (1) alcohols that could compete with the 1,2-PP for reaction with an isocyanate and (2) other compounds that may co-elute with one or more of the derivatized isocyanates.

4.3 Method interferences may be caused by contaminants in solvents, reagents, glassware, and other sample processing hardware. All these materials must be routinely shown to be free from interferences under conditions of the analysis by preparing and analyzing laboratory method (or reagent) blanks.

4.3.1 Glassware must be cleaned thoroughly before using. The glassware should be washed with laboratory detergent in hot water followed by rinsing with tap water and distilled water. The glassware may be dried by baking in a glassware oven at 400 °C for at least one hour. After the glassware has cooled, it should be rinsed three times with methylene chloride and three times with acetonitrile. Volumetric glassware should not be heated to 400 °C. Instead, after washing and rinsing, volumetric glassware may be rinsed with acetonitrile followed by methylene chloride and allowed to dry in air.

4.3.2 The use of high purity reagents and solvents helps to reduce interference problems in sample analysis.

5.0 Safety

5.1 Organizations performing this method are responsible for maintaining a current awareness file of Occupational Safety and Health Administration (OSHA) regulations regarding safe handling of the chemicals specified in this method. A reference file of material safety data sheets should also be made available to all personnel involved in performing the method. Additional references to laboratory safety are available.

6.0 Equipment and Supplies

6.1 Sample Collection. A schematic of the sampling train used in this method is shown in Figure 207–1. This sampling train configuration is adapted from Method 5 procedures, and, as such, most of the required equipment is identical to that used in Method 5 determinations. The only new component required is a condenser.

6.1.1 Probe Nozzle. Borosilicate or quartz glass; constructed and calibrated according to Method 5, sections 6.1.1.1 and 10.1, and coupled to the probe liner using a Teflon union; a stainless steel nut is recommended for this union. When the stack temperature exceeds 210 °C (410 °F), a one-piece glass nozzle/liner assembly must be used.

6.1.2 Probe Liner. Same as Method 5, section 6.1.1.2, except metal liners shall not be used. Water-cooling of the stainless steel sheath is recommended at temperatures exceeding 500 °C (932 °F). Teflon may be used in limited applications where the minimum stack temperature exceeds 120 °C (250 °F) but never exceeds the temperature where Teflon is estimated to become unstable [approximately 210 °C (410 °F)].

6.1.3 Pitot Tube, Differential Pressure Gauge, Filter Heating System, Metering System, Barometer, Gas Density Determination Equipment. Same as Method 5, sections 6.1.1.3, 6.1.1.4, 6.1.1.6, 6.1.1.9, 6.1.2, and 6.1.3.

6.1.4 Impinger Train. Glass impingers are connected in series with leak-free ground-glass joints following immediately after the heated probe. The first impinger shall be of the Greenburg-Smith design with the standard tip. The remaining five impingers shall be of the modified Greenburg-Smith design, modified by replacing the tip with a 1.3-cm (1/2-in.) I.D. glass tube extending about 1.3 cm (1/2 in.) from the bottom of the outer cylinder. A water-jacketed condenser is placed between the outlet of the first impinger and the inlet to the second impinger to reduce the evaporation of toluene from the first impinger.

6.1.5 Moisture Measurement. For the purpose of calculating volumetric flow rate and isokinetic sampling, you must also collect either Method 4 in Appendix A–3 to this part or other moisture measurement methods approved by the Administrator concurrent with each Method 326 test run.

6.2 Sample Recovery

6.2.1 Probe and Nozzle Brushes; Polytetrafluoroethylene (PTFE) bristle brushes with stainless steel wire or PTFE handles are required. The probe brush shall have extensions constructed of stainless steel, PTFE, or inert material at least as long as the probe. The brushes shall be properly sized and shaped to brush out the probe liner and the probe nozzle.

6.2.2 Wash Bottles. Three. PTFE or glass wash bottles are recommended; polyethylene wash bottles must not be used because organic contaminants may be extracted by exposure to organic solvents used for sample recovery.

6.2.3 Glass Sample Storage Containers. Chemically resistant, borosilicate amber glass bottles, 500-mL or 1,000-mL. Bottles should be tinted to prevent the action of light on the sample. Screw-cap liners shall be either PTFE or constructed to be leak-free and resistant to chemical attack by organic recovery solvents. Narrow-mouth glass bottles have been found to leak less frequently.

6.2.4 Graduated Cylinder. To measure impinger contents to the nearest 1 ml or 1 g. Graduated cylinders shall have subdivisions not >2 mL.

6.2.5 Plastic Storage Containers. Screw-cap polypropylene or polyethylene containers to store silica gel and charcoal.

6.2.6 Funnel and Rubber Policeman. To aid in transfer of silica gel or charcoal to container (not necessary if silica gel is weighed in field).

6.2.7 Funnels. Glass, to aid in sample recovery.

6.3 Sample Preparation and Analysis.

The following items are required for sample analysis.

6.3.1 Rotary Evaporator. Buchii Model EL–130 or equivalent.

6.3.2 1000 ml Round Bottom Flask for use with a rotary evaporator.

6.3.3 Separatory Funnel. 500-ml or larger, with PTFE stopcock.

6.3.4 Glass Funnel. Short-stemmed or equivalent.

6.3.5 Vials. 15-ml capacity with PTFE lined caps.

6.3.6 Class A Volumetric Flasks. 10-ml for bringing samples to volume after concentration.

6.3.7 Filter Paper. Qualitative grade or equivalent.

6.3.8 Buchner Funnel. Porcelain with 100 mm ID or equivalent.

6.3.9 Erlenmeyer Flask. 500-ml with side arm and vacuum source.

6.3.10 HPLC with at least a binary pumping system capable of a programmed gradient.

6.3.11 Column Systems Column systems used to measure isocyanates must be capable of achieving separation of the target compounds from the nearest eluting compound or interferents with no more than 10 percent peak overlap.

6.3.12 Detector. UV detector at 254 nm. A fluoresence detector (FD) with an excitation of 240 nm and an emission at 370 nm may be also used to allow the detection of low concentrations of isocyanates in samples.

6.3.13 Data system for measuring peak areas and retention times.

7.0 Reagents and Standards

7.1 Sample Collection Reagents.

7.1.1 Charcoal. Activated, 6–16 mesh. Used to absorb toluene vapors and prevent them from entering the metering device. Use once with each train and discard.

7.1.2 Silica Gel and Crushed Ice. Same as Method 5, sections 7.1.2 and 7.1.4 respectively.

7.1.3 Impinger Solution. The impinger solution is prepared by mixing a known amount of 1-(2-pyridyl) piperazine (purity 99.5+ %) in toluene (HPLC grade or equivalent). The actual concentration of 1,2-PP should be approximately four times the amount needed to ensure that the capacity of the derivatizing solution is not exceeded. This amount shall be calculated from the stoichiometric relationship between 1,2-PP and the isocyanate of interest and preliminary information about the concentration of the isocyanate in the stack emissions. A concentration of 130 µg/ml of 1,2-PP in toluene can be used as a reference point. This solution shall be prepared, stored in a refrigerated area away from light, and used within ten days of preparation.

7.2 Sample Recovery Reagents.

7.2.1 Toluene. HPLC grade is required for sample recovery and cleanup (see **Note** to 7.2.2 below).

7.2.2 Acetonitrile. HPLC grade is required for sample recovery and cleanup. **Note:** Organic solvents stored in metal containers may have a high residue blank and should not be used. Sometimes suppliers transfer solvents from metal to glass bottles; thus blanks shall be run before field use and only solvents with a low blank value should be used.

7.3 Analysis Reagents. Reagent grade chemicals should be used in all tests. All reagents shall conform to the specifications of the Committee on Analytical Reagents of the American Chemical Society, where such specifications are available.

7.3.1 Toluene, $C_6H_5CH_3$. HPLC Grade or equivalent.

7.3.2 Acetonitrile, CH_3CN (ACN). HPLC Grade or equivalent.

7.3.3 Methylene Chloride, CH_2Cl_2. HPLC Grade or equivalent.

7.3.4 Hexane, C_6H_{14}. HPLC Grade or equivalent.

7.3.5 Water, H_2O. HPLC Grade or equivalent.

7.3.6 Ammonium Acetate, $CH_3CO_2NH_4$.

7.3.7 Acetic Acid (glacial), CH_3CO_2H.

7.3.8 1-(2-Pyridyl)piperazine, (1,2-PP), ≥99.5% or equivalent.

7.3.9 Absorption Solution. Prepare a solution of 1-(2-pyridyl)piperazine in toluene at a concentration of 40 mg/300 ml. This solution is used for method blanks and method spikes.

7.3.10 Ammonium Acetate Buffer Solution (AAB). Prepare a solution of ammonium acetate in water at a concentration of 0.1 M by transferring 7.705 g of ammonium acetate to a 1,000 ml volumetric flask and diluting to volume with HPLC Grade water. Adjust pH to 6.2 with glacial acetic acid.

8.0 Sample Collection, Storage and Transport

Note: Because of the complexity of this method, field personnel should be trained in and experienced with the test procedures in order to obtain reliable results.

8.1 Sampling

8.1.1 Preliminary Field Determinations. Same as Method 5, section 8.2.

8.1.2 Preparation of Sampling Train. Follow the general procedure given in Method 5, section 8.3.1, except for the following variations: Place 300 ml of the impinger absorbing solution in the first impinger and 200 ml each in the second and third impingers. The fourth impinger shall remain empty. The fifth and sixth impingers shall have 400 g of charcoal and 200–300 g of silica gel, respectively. Alternatively, the charcoal and silica gel may be combined in the fifth impinger. Set-up the train as in Figure 326–1. During assembly, do not use any silicone grease on ground-glass joints.

Note: During preparation and assembly of the sampling train, keep all openings where contamination can occur covered with PTFE film or aluminum foil until just before assembly or until sampling is about to begin.

8.1.3 Leak-Check Procedures. Follow the leak-check procedures given in Method 5, sections 8.4.2 (Pretest Leak-Check), 8.4.3 (Leak-Checks During the Sample Run), and 8.4.4 (Post-Test Leak-Check), with the exception that the pre-test leak-check is mandatory.

8.1.4 Sampling Train Operation. Follow the general procedures given in Method 5, section 8.5. Turn on the condenser coil coolant recirculating pump and monitor the gas entry temperature. Ensure proper gas entry temperature before proceeding and again before any sampling is initiated. It is important that the gas entry temperature not exceed 50° C (122 °F), thus reducing the loss of toluene from the first impinger. For each run, record the data required on a data sheet such as the one shown in Method 5, Figure 5–3.

8.2 Sample Recovery. Allow the probe to cool. When the probe can be handled safely, wipe off all external particulate matter near the tip of the probe nozzle and place a cap over the tip to prevent losing or gaining particulate matter. Do not cap the probe tip tightly while the sampling train is cooling down because this will create a vacuum in the train. Before moving the sample train to the cleanup site, remove the probe from the sample train and cap the opening to the probe, being careful not to lose any condensate that might be present. Cap the impingers and transfer the probe and the impinger/condenser assembly to the cleanup area. This area should be clean and protected from the weather to reduce sample contamination or loss. Inspect the train prior to and during disassembly and record any abnormal conditions. It is not necessary to measure the volume of the impingers for the purpose of moisture determination as the method is not validated for moisture determination. Treat samples as follows:

8.2.1 Container No. 1, Probe and Impinger Numbers 1 and 2. Rinse and brush the probe/nozzle first with toluene twice and then twice again with acetonitrile and place the wash into a glass container labeled with the test run identification and ''Container No. 1.'' When using these solvents ensure that proper ventilation is available. Quantitatively transfer the liquid from the first two impingers and the

condenser into Container No. 1. Rinse the impingers and all connecting glassware twice with toluene and then twice again with acetonitrile and transfer the rinses into Container No. 1. After all components have been collected in the container, seal the container, and mark the liquid level on the bottle.

8.2.2 Container No. 2, Impingers 3 and 4. Quantitatively transfer the liquid from each impinger into a glass container labeled with the test run identification and ''Container No. 2.'' Rinse each impinger and all connecting glassware twice with toluene and twice again with acetonitrile and transfer the rinses into Container No. 2. After all components have been collected in the container, seal the container, and mark the liquid level on the bottle.

Note: The contents of the fifth and sixth impinger (silica gel) can be discarded.

8.2.3 Container No. 3, Reagent Blank. Save a portion of both washing solutions (toluene/acetonitrile) used for the cleanup as a blank. Transfer 200 ml of each solution directly from the wash bottle being used and combine in a glass sample container with the test identification and ''Container No. 3.'' Seal the container, and mark the liquid level on the bottle and add the proper label.

8.2.4 Field Train Proof Blanks. To demonstrate the cleanliness of sampling train glassware, you must prepare a full sampling train to serve as a field train proof blank just as it would be prepared for sampling. At a minimum, one complete sampling train will be assembled in the field staging area, taken to the sampling area, and leak-checked. The probe of the blank train shall be heated during and the train will be recovered as if it were an actual test sample. No gaseous sample will be passed through the sampling train. Field blanks are recovered in the same manner as described in sections 8.2.1 and 8.2.2 and must be submitted with the field samples collected at each sampling site.

8.2.5 Field Train Spike. To demonstrate the effectiveness of the sampling train, field handling, and recovery procedures you must prepare a full sampling train to serve as a field train spike just as it would be prepared for sampling. The field spike is performed in the same manner as the field train proof blank with the additional step of adding the Field Spike Standard to the first impinger after the initial leak check. The train will be recovered as if it were an actual test sample. No gaseous sample will be passed through the sampling train. Field train spikes are recovered in the same manner as described in sections 8.2.1 and 8.2.2 and must be submitted with the samples collected for each test program.

8.3 Sample Transport Procedures. Containers must remain in an upright position at all times during shipment. Samples must also be stored at <4°C between the time of sampling and concentration. Each sample should be extracted and concentrated within 30 days after collection and analyzed within 30 days after extraction. The extracted sample must be stored at 4°C.

8.4 Sample Custody. Proper procedures and documentation for sample chain of custody are critical to ensuring data integrity. The chain of custody procedures in ASTM D4840–99 ''Standard Guide for Sampling Chain-of-Custody Procedures'' (incorporated by reference, see § 63.14) shall be followed for all samples (including field samples and blanks).

9.0 Quality Control

9.1 Sampling. Sampling Operations. The sampling quality control procedures and acceptance criteria are listed in Table 326–2 below; see also section 9.0 of Method 5.

9.2 Analysis. The analytical quality control procedures required for this method includes the analysis of the field train proof blank, field train spike, and reagent and method blanks. Analytical quality control procedures and acceptance criteria are listed in Table 326–3 below.

9.2.1 Check for Breakthrough. Recover and determine the isocyanate(s) concentration of the last two impingers separately from the first two impingers.

9.2.2 Field Train Proof Blank. Field blanks must be submitted with the samples collected at each sampling site.

9.2.3 Reagent Blank and Field Train Spike. At least one reagent blank and a field train spike must be submitted with the samples collected for each test program.

9.2.4 Determination of Method Detection Limit. Based on your instrument's sensitivity and linearity, determine the calibration concentrations or masses that make up a representative low level calibration range. The MDL must be determined at least annually for the analytical system using an MDL study such as that found in section 15.0 to Method 301 of appendix A to part 63 of this chapter.

TABLE 326–2—SAMPLING QUALITY ASSURANCE AND QUALITY CONTROL

QA/QC Criteria	Acceptance criteria	Frequency	Consequence if not met
Sampling Equipment Leak Checks	≤0.00057 m3/min (0.020 cfm) or 4% of sampling rate, whichever is less.	Prior to, during (optional) and at the completion to sampling.	Prior to: Repair and repeat calibration. During/Completion: None, testing should be considered invalid.
Dry Gas Meter Calibration—Pre-Test (individual correction factor—Y_i).	within ±2% of average factor (individual).	Pre-test	Repeat calibration point
Dry Gas Meter Calibration—Pre-Test (average correction factor—Y_c).	1.00 ± 1%	Pre-test	Adjust the dry gas meter and re-calibrate.
Dry Gas Meter Calibration—Post-test.	Average dry gas meter calibration factor agrees with ±5% Y_c.	Each Test	Adjust sample volumes using the factor that gives the smallest volume.
Temperature sensor calibration	Absolute temperature measures by sensor within ±1.5% of a reference sensor.	Prior to initial use and before each test thereafter.	Recalibrate; sensor may not be used until specification is met.
Barometer calibration	Absolute pressure measured by instrument within ±10 mm Hg of reading with a mercury barometer or NIST traceable barometer.	Prior to initial use and before each test thereafter.	Recalibrate; instrument may not be used until specification is met.

TABLE 326–3—ANALYTICAL QUALITY ASSURANCE AND QUALITY CONTROL

QA/QC Criteria	Acceptance criteria	Frequency	Consequence if not met
Calibration—Method Blanks	<5% level of expected analyte	Each analytical method blank	Locate source of contamination; reanalyze.
Calibration—Calibration Points	At least six calibration point bracketing the expected range of analysis.	Each analytical batch	Incorporate additional calibration points to meet criteria.
Calibration—Linearity	Correlation coefficient >0.995	Each analytical batch	Verify integration, reintegrate. If necessary, recalibrate.
Calibration—secondary standard verification.	Within ±10% of true value	After each calibration	Repeat secondary standard verification, recalibrate if necessary.
Calibration—continual calibration verification.	Within ±10% of true value	Daily and after every ten samples	Invalidate previous ten sample analysis, recalibrate and repeat calibration, reanalyze samples until successful.
Sample Analysis	Within the valid calibration range	Each sample	Invalidate the sample if greater than the calibration range and dilute the sample so that it is within the calibration range. Appropriately flag any value below the calibration range.
Replicate Samples	Within ±10% of RPD	Each sample	Evaluate integrations and repeat sample analysis as necessary.
Field Train Proof Blank	≤10% level of expected analyte	Each test program	Evaluate source of contamination.
Field Train Spike	Within ±30% of true value	Each test program	Evaluate performance of the method and consider invalidating results.
Breakthrough	Final two impingers Mass collected is >5% of the total mass or >20% of the total mass when the measured results are 20% of the applicable standard. Alternatively, there is no breakthrough requirement when the measured results are 10% of the applicable standard.	Each test run	Invalidate test run.

10.0 Calibration and Standardization

Note: Maintain a laboratory log of all calibrations.

10.1 Probe Nozzle, Pitot Tube Assembly, Dry Gas Metering System, Probe Heater, Temperature Sensors, Leak-Check of Metering System, and Barometer. Same as Method 5, sections 10.1, 10.2, 10.3, 10.4, 10.5, 8.4.1, and 10.6, respectively.

10.2 High Performance Liquid Chromatograph. Establish the retention times for the isocyanates of interest; retention times will depend on the chromatographic conditions. The retention times provided in Table 10–1 are provided as a guide to relative retention times when using a C18, 250 mm × 4.6 mm ID, 5µm particle size column, a 2 ml/min flow rate of a 1:9 to 6:4 Acetonitrile/Ammonium Acetate Buffer, a 50 µl sample loop, and a UV detector set at 254 nm.

TABLE 326–4—EXAMPLE RETENTION TIMES

Retention Times	
Compound	Retention time (minutes)
MI	10.0
1,6-HDI	19.9
2,4-TDI	27.1
MDI	27.3

10.3 Preparation of Isocyanate Derivatives.

10.3.1 HDI, TDI, MDI. Dissolve 500 mg of each isocyanate in individual 100 ml aliquots of methylene chloride ($MeCl_2$), except MDI which requires 250 ml of $MeCl_2$. Transfer a 5-ml aliquot of 1,2-PP (see section 7.3.8) to each solution, stir and allow to stand overnight at room temperature. Transfer 150 ml aliquots of hexane to each solution to precipitate the isocyanate-urea derivative. Using a Buchner funnel, vacuum filter the solid-isocyanate-urea derivative and rinse with 50 ml of hexane. Dissolve the precipitate in a minimum aliquot of $MeCl_2$. Repeat the hexane precipitation and filtration twice. After the third filtration, dry the crystals at 50 °C and transfer to bottles for storage. The crystals are stable for at least 21 months when stored at room temperature in a closed container.

10.3.2 MI. Prepare a 200 µg/ml stock solution of methyl isocyanate-urea, transfer 60 mg of 1,2-PP to a 100-ml volumetric flask containing 50 ml of $MeCl_2$. Carefully transfer 20 mg of methyl isocyanate to the volumetric flask and shake for 2 minutes. Dilute the solution to volume with $MeCl_2$ and transfer to a bottle for storage. Methyl isocyanate does not produce a solid derivative and standards must be prepared from this stock solution.

10.4 Preparation of calibration standards. Prepare a 100 µg/ml stock solution of the isocyanates of interest from the individual isocyanate-urea derivative as prepared in sections 10.3.1 and 10.3.2. This is accomplished by dissolving 1 mg of each isocyanate-urea derivative in 10 ml of Acetonitrile. Calibration standards are prepared from this stock solution by making appropriate dilutions of aliquots of the stock into Acetonitrile.

10.5 Preparation of Method Blanks. Prepare a method blank for each test

program (up to twenty samples) by transferring 300 ml of the absorption solution to a 1,000-ml round bottom flask and concentrate as outlined in section 11.2.

10.6 Preparation of Field Spike Solution. Prepare a field spike solution for every test program in the same manner as calibration standards (see Section 10.4). The mass of the target isocyanate in the volume of the spike solution for the field spike train shall be equivalent to that estimated to be captured from the source concentration for each compound; alternatively, you may also prepare a solution that represents half the applicable standard.

10.7 HPLC Calibrations. See Section 11.1.

11.0 Analytical Procedure

11.1 Analytical Calibration. Perform a multipoint calibration of the instrument at six or more upscale points over the desired quantitative range (multiple calibration ranges shall be calibrated, if necessary). The field samples analyzed must fall within at least one of the calibrated quantitative ranges and meet the performance criteria specified below. The lowest point in your calibration curve must be at least 5, and preferably 10, times the MDL. For each calibration curve, the value of the square of the linear correlation coefficient, *i.e.,* r^2, must be ≥0.995, and the analyzer response must be within ±10 percent of the reference value at each upscale calibration point. Calibrations must be performed on each day of the analysis, before analyzing any of the samples. Following calibration, a secondary standard shall be analyzed. A continual calibration verification (CCV) must also be performed prior to any sample and after every ten samples. The measured value of this independently prepared standard must be within ±10 percent of the expected value. Report the results for each calibration standard secondary standard, and CCV as well as the conditions of the HPLC. The reports should include at least the peak area, height, and retention time for each isocyanate compound measured as well as a chromatogram for each standard.

11.2 Concentration of Samples. Transfer each sample to a 1,000-ml round bottom flask. Attach the flask to a rotary evaporator and gently evaporate to dryness under vacuum in a 65 °C water bath. Rinse the round bottom flask three times each with 2 ml of acetonitrile and transfer the rinse to a 10-ml volumetric flask. Dilute the sample to volume with acetonitrile and transfer to a 15-ml vial and seal with a PTFE lined lid. Store the vial ≤4 °C until analysis.

11.3 Analysis. Analyze replicative samples by HPLC, using the appropriate conditions established in section 10.2. The width of the retention time window used to make identifications should be based upon measurements of actual retention time variations of standards over the course of a day. Three times the standard deviation of a retention time for a compound can be used to calculate a suggested window size; however, the experience of the analyst should weigh heavily in the interpretation of the chromatograms. If the peak area exceeds the linear range of the calibration curve, the sample must be diluted with acetonitrile and reanalyzed. Average the replicate results for each run. For each sample you must report the same information required for analytical calibrations (Section 11.1). For non-detect or values below the detection limit of the method, you shall report the value as ''<'' numerical detection limit.

12.0 Data Analysis and Calculations

Nomenclature and calculations, same as in Method 5, section 6, with the following additions below.

12.1 Nomenclature.

AS = Response of the sample, area counts.
b = Y-intercept of the linear regression line, area counts.
BR = Percent Breakthrough
C_A = Concentration of a specific isocyanate compound in the initial sample, µg/ml.
C_B = Concentration of a specific isocyanate compound in the replicate sample, µg/ml.
C_I = Concentration of a specific isocyanate compound in the sample, µg/ml.
C_{rec} = Concentration recovered from spike train, µg/ml.
C_S = Concentration of isocyanate compound in the stack gas, µg/dscm
C_T = Concentration of a specific isocyanate compound (Impingers 1–4), µg/dscm
C_{spike} = Concentration spiked, µg/ml.
C_4 = Concentration of a specific isocyanate compound (Impingers 14), µg/dscm
FI_m = Mass of Free Isocyanate
FTS_{rec} = Field Train Spike Recovery
I_m = Mass of the Isocyanate
I_{mw} = MW of the Isocyanate
IU_m = Mass of Isocyanate-urea derivative
IU_{mw} = MW of the isocyanate-urea
M= Slope of the linear regression line, area counts-ml/µg.
m_I = Mass of isocyanate in the total sample
MW = Molecular weight
RPD = Relative Percent Difference
VF = Final volume of concentrated sample, typically 10 ml.
Vm_{std} = Volume of gas sample measured by the dry-gas meter, corrected to standard conditions, dscm (dscf).

12.2 Conversion from Isocyanate to the Isocyanate-urea derivative. The equation for converting the amount of free isocyanate to the corresponding amount of isocyanate-urea derivative is as follows:

$$IU_m = I_m \frac{IU_{mw}}{I_{mw}} \qquad \text{Eq. 326-1}$$

The equation for converting the amount of IU derivative to the corresponding amount of FI_m is as follows:

$$I_m = IU_m \frac{I_{mw}}{IU_{mw}} \qquad \text{Eq. 326-2}$$

12.3 Calculate the correlation coefficient, slope, and intercepts for the calibration data using the least squares method for linear regression. Concentrations are expressed as the x-variable and response is expressed as the y-variable.

12.4 Calculate the concentration of isocyanate in the sample:

$$C_I = \frac{As - b}{M} \qquad \text{Eq. 326-3}$$

12.5 Calculate the total amount collected in the sample by multiplying the concentration (µg/ml) times the final volume of acetonitrile (10 ml).

$$m_I = CI \times V_f \qquad \text{Eq. 326-4}$$

12.6 Calculate the concentration of isocyanate (µg/dscm) in the stack gas.

$$C_s = \frac{M_I}{Vm_{std}} K \qquad \text{Eq. 326-5}$$

12.7 Calculate Relative Percent Difference (RPD) for each replicative sample

$$\%RPD = \left| \frac{(C_A - C_B)}{(C_A + C_B)/2} \right| x100 \qquad \text{Eq. 326-6}$$

12.8 Calculate Field Train Spike Recovery

$$FTS_{rec} = \left[\frac{C_{rec}}{C_{spike}} \right] \times 100 \qquad \text{Eq. 326-7}$$

12.9 Calculate Percent Breakthrough

$$BR = \left[\frac{C_4}{C_T} \right] \times 100 \qquad \text{Eq. 326-8}$$

Where:

K = 35.314 ft^3/m^3 if Vm(std) is expressed in English units. = 1.00 m^3/m^3 if Vm(std) is expressed in metric units.

13.0 Method Performance

Evaluation of sampling and analytical procedures for a selected series of compounds must meet the quality control criteria (See Section 9) for each associated analytical determination. The sampling and analytical procedures

must be challenged by the test compounds spiked at appropriate levels and carried through the procedures.

14.0 Pollution Prevention [Reserved]

15.0 Waste Management [Reserved]

16.0 Alternative Procedures [Reserved]

17.0 References

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3. Schlickenrieder, L.M., Adams, J.W., and Thrun, K.E., Modified Method 5 Train and Source Assessment Sampling System: Operator's Manual, U.S. Environmental Protection Agency, EPA/600/8–85/003/1985).
4. Shigehara, R.T., Adjustments in the EPA Nomograph for Different Pitot Tube Coefficients and Dry Molecular Weights, Stack SamplingNews, 2:4–11 (October 1974).
5. U.S. Environmental Protection Agency, 40 CFR part 60, Appendices A–1, A–2, and A–3, Methods 1–5.
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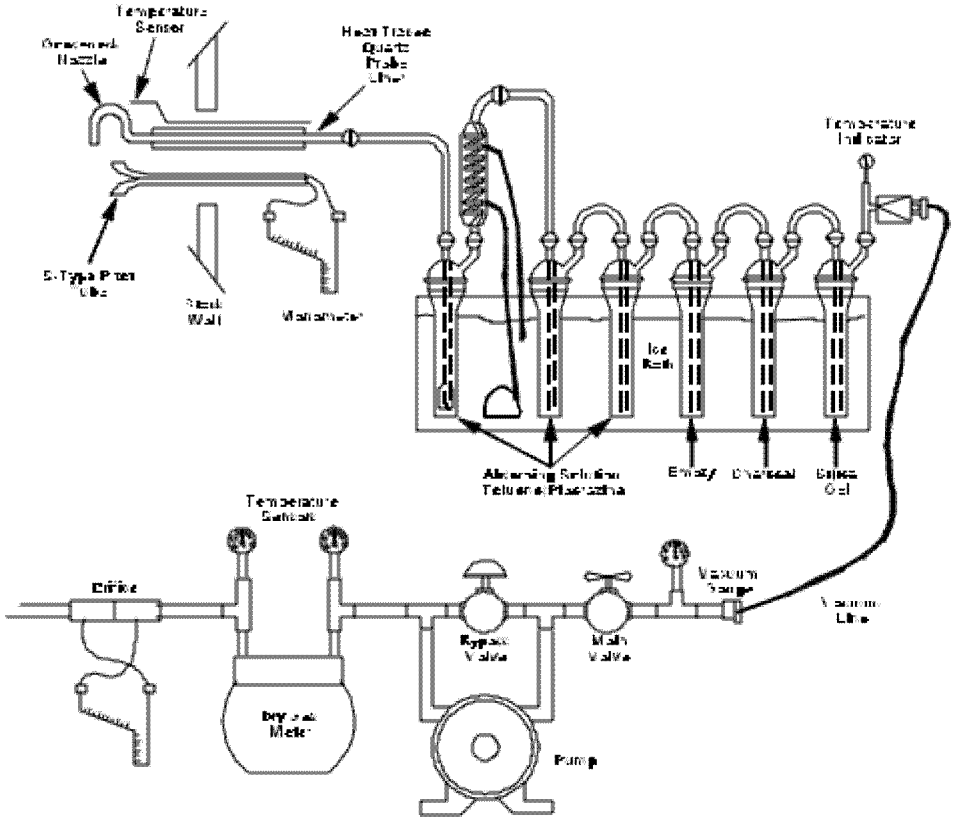

Figure 326-1—Method 326 Sampling Train

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Part III

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Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules in Connection With the Migration of Cboe C2 to Cboe EDGX Options Technology; Notice

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–83214; File No. SR–C2–2018–005]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rules in Connection With the Migration of Cboe C2 to Cboe EDGX Options Technology

May 11, 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, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder.[4] 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 C2's rulebook in preparation for the technology migration of C2 onto the options platform of an Exchange's affiliated options exchange, Cboe EDGX Exchange, Inc. (''EDGX'' or ''EDGX Options'').

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

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. (formerly named CBOE Holdings, Inc.) (''Cboe Global''), which is also the parent company of Cboe Exchange, Inc. (''Cboe Options''), acquired EDGX and its affiliated exchanges, Cboe EDGA Exchange, Inc. (''EDGA'' or ''EDGA Options''), Cboe BZX Exchange, Inc. (''BZX''), and Cboe BYX Exchange, Inc. (''BYX'' and, together with C2, Cboe Options, EDGX, EDGA, and BZX, the ''Cboe Affiliated Exchanges''). C2 intends to migrate its technology onto the same trading platform as EDGX. In this context, C2 proposes to align certain system functionality with EDGX (and BZX in certain circumstances), while retaining certain C2 functionality, as well as to make other nonsubstantive changes to the rules, retaining only intended differences between it and the Cboe Affiliated Exchanges. Although the Exchange intentionally offers certain features that differ from those offered by the Cboe Affiliated Exchanges and will continue to do so, the Exchange believes offering similar functionality to the extent practicable will reduce potential confusion for market participants. The proposed rule change modifies or adds certain system functionality currently offered by EDGX to provide a consistent technology offering for users of Cboe Affiliated Exchanges.

Chapter 1

The proposed rule change makes the following changes to Chapter 1 of the C2 Rulebook.

The following table identifies the defined terms that are proposed to be added to or amended in C2 Rule 1.1, whether the proposed amended rule was moved from a current C2 rule or corresponds to the rule of EDGX or another exchange, and proposed substantive changes.

Defined term	Provision	Current C2 rule	Corresponding other exchange rule	Description of change
ABBO	best bid(s) or offer(s) disseminated by other Eligible Exchanges[5] and calculated by the Exchange based on market information the Exchange receives from OPRA.	N/A	EDGX Rule 21.20(a)(1)	Added to C2 Rule 1.1.
Adjusted Series	series in which, as a result of a corporate action by the underlying security, one option contract in the series represents the delivery of other than 100 shares of underlying stock or Units.	8.5(a)(1)	N/A	Moved to C2 Rule 1.1.
Bid	the price of a limit order or quote to buy one or more options contracts.	N/A	EDGX Rule 16.1(a)(6)	Added to C2 Rule 1.1.
Book or Simple Book.	electronic book of simple orders and quotes maintained by the System.	1.1	EDGX Rule 16.1(a)(9)	Adding that Book may also be referred to as Simple Book.
Call	option contract under which the holder of the option has the right, in accordance with the terms of the option and Rules of the Clearing Corporation, to purchase from the Clearing Corporation the number of units of the underlying security or index covered by the option contract, at a price per unit equal to the exercise price, upon the timely exercise of the option.	1.1	EDGX Rule 16.1(a)(12)	Added clarifying language consistent with put definition to conform to EDGX rule.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

Defined term	Provision	Current C2 rule	Corresponding other exchange rule	Description of change
Capacity	capacity in which a User submits an order, which the User specifies by applying the corresponding code to the order, and includes B (account of a broker or dealer, including a Foreign Broker-Dealer), C (Public Customer account), F (OCC clearing firm proprietary account), J (joint back office account), L (non-Trading Permit Holder affiliate account), M (Market-Maker account), N (market-maker or specialist on another options exchange), U (Professional account).	N/A	N/A	C2 currently refers to capacity as origin code; current C2 origin codes are in Regulatory Circular RG13–015, and are the same as the proposed Capacities, except the proposed rule changes W to U (see EDGX specifications[6]), and adds L, which is not currently permitted on C2 (see Cboe Options Regulatory Circular RG13–038).
Cboe Trading	Cboe Trading, Inc., broker-dealer affiliated with C2 and will serve as inbound and outbound router for C2, as discussed below.	3.18	EDGX Rule 2.11	Moved to C2 Rule 1.1.
Class	all option contracts with the same unit of trading covering the same underlying security or index.	1.1	EDGX Rule 16.1(a)(13)	Deletes unnecessary reference to options, given only options trade on C2; adds that options may cover an index (see C2 Chapter 24); deletes that a class means options of the same type (currently defined as put or call), as a class is comprised of both puts and calls; adds that a class is comprised of option contracts with the same unit of trading covering the same underlying security or index (discussed below).
Clearing Corporation or OCC.	Options Clearing Corporation	1.1	EDGX Rule 16.1(14)	Adding that the Clearing Corporation may also be referred to as OCC.
Clearing Trading Permit Holder.	a Trading Permit Holder that has been admitted to membership in the Clearing Corporation pursuant to the provisions of the rules of the Clearing Corporation and is self-clearing or that clears transactions for other Trading Permit Holders.	1.1	EDGX Rule 16.1(a)(15)	Added that Clearing Trading Permit Holders self-clear or clear on behalf of others (consistent with C2 today).
Commission or SEC.	U.S. Securities and Exchange Commission	1.1	EDGX Rule 1.5(g)	Adding that the Commission may also be referred to as SEC.
Complex Order	order involving the concurrent execution of two or more different series in the same class (the ''legs'' or ''components'' of the order), for the same account, occurring at or near the same time in a ratio greater than or equal to one-to-three and less than or equal to three-to-one and for the purpose of executing a particular investment strategy with no more than the applicable number of legs (which number the Exchange determines on a class-by-class basis); the Exchange determines in which classes complex orders are eligible for processing.	6.13(a)(1)	EDGX Rule 21.20(a)(5)	Moved to C2 Rule 1.1 and 6.12(a); added that C2, like EDGX, can impose a maximum number of legs and determine in which classes complex orders are available.
Customer	Public Customer or broker-dealer	N/A	EDGX Rule 16.1(a)(19)	Added to C2 Rule 1.1; new definition in C2 Rules, but concept of customers exists throughout current C2 rules (including in priority rules).
Customer Order	agency order for the account of a Customer	N/A	EDGX Rule 16.1(a)(20)	Added to C2 Rule 1.1.
Discretion	authority of a broker or dealer to determine for a Customer the type of option, class or series of options, the number of contracts, or whether options are to be bought or sold.	N/A	EDGX Rule 16.1(a)(21)	Added to C2 Rule 1.1; substantively the same as the EDGX definition.
EFID	Executing Firm ID	N/A	EDGX Rule 21.1(c)(1)	Added to C2 Rule 1.1; EDGX rule refers to the term MPID, which is generally equivalent to EFID; similar to the term acronym, which is used in current C2 rules; EFID is the term used in C2 technical specification following migration, and thus more appropriate for the C2 rules; as noted below, a firm may have multiple EFIDs.
Equity Option	option on an equity security or Unit	N/A (equity options permitted by C2 Chapter 5).	EDGX Rule 16.1(a)(27)	Added to C2 Rule 1.1.
Exchange Act	Securities Exchange Act of 1934, including rules and regulations thereunder.	1.1	EDGX Rule 16.1(a)(23)	Added rules and regulations, which also apply to the Exchange rules.
Expiration Date	third Friday of expiration month	1.1	N/A	Deleted language about series that expire on Saturday rather than Friday, as no more grandfathered series are listed on the Exchange.
He, Him, His	deemed to refer to persons of female as well as male gender and to include organizations, as well as individuals, when the context requires.	N/A	EDGX Rule 16.1(a)(25)	Added to C2 Rule 1.1.
Index Option	option on a broad-based, narrow-based, micro narrow-based or other index of equity securities prices.	N/A (index options permitted by C2 Chapter 24).	EDGX Rule 16.1(a)(26)	Added to C2 Rule 1.1.

Defined term	Provision	Current C2 rule	Corresponding other exchange rule	Description of change
Market Close	time the Exchange specifies for the end of trading on the Exchange on that trading day.	N/A (market close time set forth in C2 Rule 6.1).	EDGX Rule 16.1(a)(34)	Added to C2 Rule 1.1.
Market Open	time the Exchange specifies for the start of trading on the Exchange on that trading day.	N/A (market open time set forth in C2 Rules 6.1 and 6.10).	EDGX Rule 16.1(a)(35)	Added to C2 Rule 1.1.
Notional Value	value calculated by multiplying the number of contracts (contract size multiplied by the contract multiplier) in an order by the order's limit price.	6.15(e)(1)(C)	EDGX Rule 20.6(e)(1)(C).	Added to C2 Rule 1.1.
NBB, NBO, and NBBO.	national best bid, national best offer, and national best bid or offer the Exchange calculates based on market information it receives from OPRA.	1.1	EDGX Rule 16.1(a)(29)	Added NBB and NBO to C2 definition.
Offer	the price of a limit order or quote to sell one more option contracts.	N/A	EDGX Rule 16.1(a)(30)	Added to C2 Rule 1.1.
OPRA	Options Price Reporting Authority	N/A	EDGX Rule 16.1(a)(41)	Added to C2 Rule 1.1.
Order	firm commitment to buy or sell option contracts that the System receives from a User, which may be a limit order or market order.	1.1 and 6.10(a) and (b)	EDGX Rule 16.1(a)(42) and 21.1(c).	Moved market order and limit order definitions to C2 Rule 1.1, as all orders must be market or limit.
Order Entry Firm/OEF.	Trading Permit Holder representing as agent Customer Orders on the Exchange and non-Market-Maker Trading Permit Holder conducting proprietary trading.	N/A	EDGX Rule 16.1(a)(36)	Added to C2 Rule 1.1.
Order Instruction	processing instruction a User may apply to an order (multiple instructions may apply to a single order) when entering it into the System.	N/A	EDGX Rule 21.1(d)	Added to C2 Rule 1.1 (rules currently permit various instructions); various order instructions substantively similar to those available on EDGX.
Attributable	order a User designates for display (price and size) that includes the User's EFID or other unique identifier.	6.10(f)	EDGX Rule 21.1(c)(1)	Moved to C2 Rule 1.1, Order Instruction.
Book Only	order the System ranks and executes pursuant to Rule 6.12, subjects to the Price Adjust process pursuant to Rule 6.12, or cancels, as applicable (in accordance with User instructions), without routing away to another exchange.	6.10(j)	EDGX Rule 21.1(d)(7)	Moved to C2 Rule 1.1, Order Instruction (previously called C2-Only Order).
Cancel Back	order a User designates to not be subject to the Price Adjust process pursuant to Rule 6.12 that the System cancels or rejects (immediately at the time the System receives the order or upon return to the System after being routed away) if displaying the order on the Book would create a violation of Rule 6.82, or if the order cannot otherwise be executed or displayed in the Book at its limit price.	N/A	EDGX Rule 11.6(b)	Added to C2 Rule 1.1 (consistent with Rule 6.82) and substantively similar EDGX Rule (further discussed below).
Intermarket Sweep Order/ ISO.	order that has the meaning provided in Section E of Chapter 6, which may be executed at one or multiple price levels in the System without regard to Protected Quotations at other options exchanges; the Exchange relies on the marking of an order by a User as an ISO order when handling such order, and thus, it is the entering Trading Permit Holder's responsibility, not the Exchange's responsibility, to comply with the requirements relating to ISOs.	6.10(g)	EDGX Rule 21.1(d)(2)	Moved to C2 Rule 1.1 (consistent with current C2 system).
Match Trade Prevention/ MTP Modifier.	order not executed against a resting opposite side order or quote also designated with an MTP modifier and originating from the same EFID, Trading Permit Holder identifier, trading group identifier, or Sponsored User identifier (''Unique Identifier''), with five types of modifiers available.	6.10(k)	EDGX Rule 21.1(g)	Moved to C2 Rule 1.1 and conformed to EDGX rule (further discussed below).
Minimum Quantity.	order that requires a specified minimum quantity of contracts be executed or is cancelled; Minimum Quantity orders will only execute against multiple, aggregated orders if such executions would occur simultaneously, and only a Book Only order with TIF designation of IOC may have a Minimum Quantity instruction (the System disregards a Minimum Quantity instruction on any other order).	N/A	EDGX Rule 21.1(d)(3)	Added to C2 Rule 1.1 (further discussed below).
Non-Attributable	order a User designates for display (price and size) on an anonymous basis or not designated as an Attributable Order.	N/A	EDGX Rule 21.1(c)(2)	Added to C2 Rule 1.1—orders currently not marked Attributable on C2 are non-attributable; proposed rule change merely permits Users to affirmatively designate orders as non-attributable, and specify the Exchange will by default treat orders as Non-Attributable unless the User designates it as Attributable.

Defined term	Provision	Current C2 rule	Corresponding other exchange rule	Description of change
Post Only	order the System ranks and executes pursuant to Rule 6.12, subject to the Price Adjust process pursuant to Rule 6.12, or cancels or rejects (including if it is not subject to the Price Adjust process and locks or crosses a Protected Quotation of another exchange), as applicable, except the order may not remove liquidity from the Book or route away to another Exchange.	N/A	EDGX Rule 21.1(d)(8)	Added to C2 Rule 1.1 (further discussed below).
Price Adjust	order a User designates to be subject to the Price Adjust process pursuant to Rule 6.12, or an order a User does not designate as Cancel Back.	N/A	EDGX Rule 21.1(i)	Added to C2 Rule 1.1 (Price Adjust process described further below).
Reserve Order	limit order with both a portion of the quantity displayed (''Display Quantity'') and a reserve portion of the quantity (''Reserve Quantity'') not displayed; both display quantity and reserve quantity are available for potential execution against incoming orders, with Max Floor and replenishment instructions available.	6.10(c)(8) and 6.12(c)	BZX Rule 21.1(d)(1)	Moved to C2 Rule 1.1 (further discussed below).
Stop (Stop-Loss) Order.	order to buy (sell) that becomes a market order when the consolidated last sale price (excluding prices from complex order trades if outside the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User.	6. 10(c)(3)	BZX Rule 21.1(d)(11)	Moved to C2 Rule 1.1; modified to compare stop prices to national prices rather than Exchange prices (EDGX similarly uses the NBBO), which reflect price from entire market (similar change in Rule 6.10(c) provision regarding stop orders).
Stop-Limit Order	order to buy (sell) that becomes a limit order when the consolidated last sale price (excluding prices from complex order trades if outside the NBBO) or NBB (NBO) for a particular option contract is equal to or above (below) the stop price specified by the User.	6.10(c)(4)	BZX Rule 21.1(d)(12)	Moved to C2 Rule 1.1; modified to compare stop prices to national prices rather than Exchange prices (EDGX similarly uses the NBBO), which reflect price from entire market (similar change in Rule 6.10(c) provision regarding stop orders).
Port	adds definitions of various types of ports available in the new Exchange system.	N/A	EDGX Rule 21.1(j)	Added to C2 Rule 1.1 (further discussed below).
Primary Market	primary exchange on which an underlying security is listed.	N/A	EDGX Rule 16.1(a)(44)	Added to C2 Rule 1.1 (concept exists in current C2 rules, such a 6.11(b)).
Protected Quotation.	a Protected Bid or Protected Offer, as each of those terms is defined in Rule 6.80.	6.80	EDGX Rule 16.1(a)(47)	Added to list of defined terms in C2 Rule 1.1.
Put	option contract under which the holder of the option has the right, in accordance with the terms and provisions of the option and Rules of the Clearing Corporation, to sell to the Clearing Corporation the number of units of the underlying security covered by the option contract, at a price per unit equal to the exercise price, upon the timely exercise of such option.	1.1	EDGX Rule 16.1(a)(49)	Added clarifying language consistent with put definition to conform to EDGX rule.
Quote or quotation.	bid or offer entered by a Market-Maker as a firm order, which updates the Market-Maker's previous bid or offer, if any.	1.1	EDGX Rule 16.1(a)(51)	Conforms C2 definition to EDGX definition (including to state that Market-Maker quotes are entered using order functionality).
SBBO	best bid and offer on the Exchange for a complex strategy calculated using the BBO for each component of a complex strategy to establish the best net bid and offer for a complex strategy.	1.1	EDGX Rule 21.20(a)(11).	Moved to proposed C2 Rule 6.13(a); currently defined as Exchange Spread Market in C2 Rule 1.1, which definition is being deleted.
Series	all option contracts of the same class that are the same type of option and have the same exercise price, and expiration date.	1.1	EDGX 16.1(a)(55)	Clarified that a series consists of options of the same type (i.e. options with the same exercise price and date that are calls are a series, and options with the same exercise price and date that are puts are another series).
Size	number of contracts up to 999,999 associated with an order or quote.	N/A	EDGX Rule 21.1(e)	Added to C2 Rule 1.1 (consistent with current C2 system).
SNBBO	national best bid and offer for a complex strategy calculated using the NBBO for each component of a complex strategy to establish the best net bid and offer for a complex strategy.	1.1	EDGX Rule 21.20(a)(12).	Moved to Rule 6.13(a); currently defined as National Spread Market in C2 Rule 1.1, which definition is being deleted.
System Securities.	options that currently trade on the Exchange pursuant to Chapters 5 and 24.	N/A	EDGX Rule 21.1(b)	Added to C2 Rule 1.1 (additional term for options listed for trading).
Time-in-Force	period of time the System will hold an order for potential execution.	N/A	EDGX Rule 21.1(f)	Added to C2 Rule 1.1 (general term to cover various time-in-force instructions).
Day	time-in-force that means an order to buy or sell that, if not executed, expires at market close.	6.10(e)(1)	EDGX Rule 21.1(f)(3)	Moved to C2 Rule 1.1.
Fill-or-Kill/FOK	time-in-force that means an order that is to be executed in its entirety as soon as the System receives it and, if not so executed, cancelled.	6.10(c)(5)	EDGX Rule 21.1(f)(5)	Moved to C2 Rule 1.1.

Defined term	Provision	Current C2 rule	Corresponding other exchange rule	Description of change
Good-til-Cancelled/GTC.	time-in-force that means, if after entry into the System, the order is not fully executed, the order (or unexecuted portion) remains available for potential display or execution (with the same timestamp) unless cancelled by the entering User, or until the option expires, whichever comes first.	6.10(c)(2)	EDGX Rule 21.1(f)(4)	Moved to C2 Rule 1.1.
Good-til-Date/GTD.	time-in-force that means, if after entry into the System, the order is not fully executed, the order (or unexecuted portion) remains available for potential display or execution (with the same timestamp) until a date and time specified by the entering User unless cancelled by the entering User.	N/A	EDGX Rule 21.1(f)(1)	Added to C2 Rule 1.1 (similar to EDGX time-in-force, as further discussed below).
Immediate-or-Cancel/IOC.	time-in-force for a limit order that is to be executed in whole or in part as soon as the System receives it; the System cancels and does not post to the Book any portion of an IOC order (or unexecuted portion) not executed immediately on the Exchange or another options exchange.	6.10(c)(6)	EDGX Rule 21.1(f)(2)	Moved to C2 Rule 1.1.
At the Open/OPG.	time-in-force means an order that may only participate in the Opening Process on the Exchange; the System cancels an OPG order (or unexecuted portion) that does not execute during the Opening Process.	6.10(c)(7)	EDGX Rule 21.1(f)(6)	Moved to C2 Rule 1.1.
Trade Desk	Exchange operations staff authorized to make certain trading determinations on behalf of the Exchange.	1.1	N/A	Changed to Trade Desk, which is new term for Help Desk at the Exchange (which term is being deleted from the Rules).
Transaction	transaction involving a contract effected on or through the Exchange or its facilities or systems.	N/A	EDGX Rule 16.1(a)(11)	Added to C2 Rule 1.1 (same as EDGX rule, consistent with industry term).
Unit	shares or other securities traded on a national securities exchange and defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that satisfy the criteria in Rule 5.3, Interpretation and Policy .06.	5.3, Interpretation and Policy .06.	EDGX Rule 19.3(i) (Units defined as Fund Shares in EDGX Rules).	Added to list of defined terms in C2 Rule 1.1.
Unit of Trading	defined in Rule 6.2	6.2	N/A	Added to list of defined terms in C2 Rule 1.1 (discussed below).
User	any Trading Permit Holder or Sponsored User who is authorized to obtain access to the System pursuant to Rule 6.8.	N/A	EDGX Rule 16.1(a)(63)	Added to C2 Rule 1.1 (common term to apply to two types of market participants defined in C2 Rules, which are the only two market participants that may access the System under C2 Rules).

The proposed rule change makes changes throughout C2 Rules to conform to the changes to defined terms.

As noted above, the proposed rule change amends the definition of class to mean all option contracts with the same unit of trading (including adjusted series as determined by OCC) covering the same underlying security or index. The current definition states a class consists of options of the same type, which is defined as either a put or a call. However, the term class is generally understood to include both puts and calls, which are types of series, not separate classes, making this definition outdated. As described above, options with the same exercise price and expiration date that are puts constitute one series, and options with the same exercise price and expiration date that are calls constitute another series. Additionally, there are some exceptions for options that cover the same underlying but constitute a separate class, and the proposed definition incorporates this concept.[7] For example, mini-options cover the same underlying security as standard options, but are considered as separate class since they have a different deliverable (10 shares of the underlying security rather than 100 shares of the underlying security, respectively). Additionally, when OCC adjusts series in connection with corporate actions (see Rule 5.7), it announces whether those series are part of the same existing class or a new class covering the same underlying security. The concept of unit of trading more accurately describes the series that constitute a class (*e.g.* the unit of trading for a mini-option is 10, and the unit of trading for a standard option is 100, making each a separate class under the proposed definition). The proposed definition accounts for these exceptions, and is a more accurate definition of what options constitute a class today on the Exchange.

As noted above, the proposed rule change adds the following order instructions to C2 Rule 1.1, which order instructions are available on EDGX or BZX, as indicated.

- *Cancel Back:* A Book Only or Post Only order a User designates to not be subject to the Price Adjust Process pursuant to Rule 6.12, which the System cancels or rejects if it locks or crosses the opposite side of the ABBO. The System executes a Book Only—Cancel Back order against resting orders and quotes, and cancels or rejects a Post Only—Cancel Back order, that locks or crosses the opposite side of the BBO. The proposed functionality is partially included in the definition of Post Only in the EDGX rules.[8] The proposed rule change extends the definition to Book Only orders and is consistent with

[5] Eligible Exchange is defined in Cboe Rule 6.80(7).

[6] BOE Specifications, available at *http://cdn.batstrading.com/resources/membership/BATS_US_Options_BOE2_Specification.pdf,* and FIX Specifications, available at *http://cdn.batstrading.com/resources/membership/BATS_US_Options_BZX_FIX_Specification.pdf.*

[7] The proposed definition is based on the OCC definition of class. *See* OCC By-Laws Article I, C.(11). The proposed definition of unit of trading is consistent with C2 Rule 6.2.

[8] *See* EDGX Rule 21.6(d)(8).

linkage rules included in Chapter 6, Section E of the Rules and is consistent with EDGX Rule 21.6(f). Book Only orders and Post Only orders do not route by definition, and the Cancel Back instruction provides an option for Users to determine how they will be handled within the System, consistent with their definitions.[9]

• *Match Trade Prevention (MTP) Modifiers:* Current C2 Rule 6.10(k) defines a Market-Maker Trade Prevention Order as an IOC order market with the Market-Maker Trade Prevention designation. A Market-Maker Trade Prevention Order that would trade against a resting quote or order for the same Market-Maker will be cancelled, as will the resting quote or order (unless the Market-Maker Trade Prevention Order is received while an order for the same Market-Maker is subject to an auction, in which case only the Market-Maker Trade Prevention Order will be cancelled). The Exchange proposes to adopt MTP modifiers substantively the same as those available on EDGX.[10] The proposed MTP modifiers expand this functionality to all Users, rather than just Market-Makers, and provide Users with multiple options regarding how the System handles orders and quotes with the same Unique Identifiers. Pursuant to the proposed rule change, an order designated with any MTP modifier is not executed against a resting opposite side order or quote also designated with an MTP modifier and originating from the same Unique Identifier. Except for the MDC modifier described below, the MTP modifier on the incoming order controls the interaction between two orders marked with MTP modifiers:

○ MTP Cancel Newest (''MCN''): An incoming order marked with the ''MCN'' modifier does not execute against a resting order marked with any MTP modifier originating from the same Unique Identifier. The System cancels or rejects the incoming order, and the resting order remains in the Book.

○ MTP Cancel Oldest (''MCO''): An incoming order marked with the ''MCO'' modifier does not execute against a resting order marked with any MTP modifier originating from the same Unique Identifier. The System cancels or rejects the resting order, and processes the incoming order in accordance with Rule 6.12.

○ MTP Decrement and Cancel (''MDC''): An incoming order marked with the ''MDC'' modifier does not execute against a resting order marked with any MTP modifier originating from the same Unique Identifier. If both orders are equivalent in size, the System cancels or rejects both orders. If the orders are not equivalent in size, the System cancels or rejects the smaller of the two orders and decrements the size of the larger order by the size of the smaller order, which remaining balance remains on or processes in accordance with Rule 6.12, as applicable. Notwithstanding the foregoing, unless a User instructs the Exchange not to do so, the System cancels or rejects both orders if the resting order is marked with any MTP modifier other than MDC and the incoming order is smaller in size than the resting order.

○ MTP Cancel Both (''MCB''): An incoming order marked with the ''MCB'' modifier does not execute against a resting order marked with any MTP modifier originating from the same Unique Identifier. The System cancels or rejects both orders.

○ MTP Cancel Smallest (''MCS''): An incoming order marked with the ''MCS'' modifier does not execute against a resting order marked with any MTP modifier originating from the same Unique Identifier. If both orders are equivalent in size, the System cancels or rejects both orders. If the orders are not equivalent in size, the System cancels or rejects the smaller of the two orders, and the larger order remains on the Book or processes in accordance with Rule 6.12, as applicable.

The proposed MTP functionality is designed to prevent market participants from unintentionally causing a proprietary self-trade. The Exchange believes these modifiers will allow firms to better manage order flow and prevent undesirable executions with themselves. Trading Permit Holders may have multiple connections into the Exchange consistent with their business needs and function. As a result, orders routed by the same firm via different connections may, in certain circumstances, trade against each other. The proposed modifiers provide Trading Permit Holders with functionality (in addition to what is available on C2 today) with the opportunity to prevent these potentially undesirable trades. The Exchange notes that offering the MTP modifiers may streamline certain regulatory functions by reducing false positive results that may occur on Exchange generated wash trading surveillance reports when orders are executed under the same Unique Identifier. For these reasons, the Exchange believes the MTP modifiers offer users enhanced order processing functionality that may prevent potentially undesirable executions without negatively impacting broker-dealer best execution obligations.

• *Minimum Quantity Order:* An order that requires a specified minimum quantity of contracts be executed or is cancelled. Minimum Quantity orders will only execute against multiple, aggregated orders if such executions would occur simultaneously. Only a Book Only order with a time-in-force designation of IOC may have a Minimum Quantity instruction (the System disregards a Minimum Quantity instruction on any other order). This functionality ensures a User's order will not partially execute for less than the minimum amount of contracts a User desires to execute as part of its investment strategy. Only permitting this functionality for Book Only IOC order is consistent with the purpose of this functionality, as current Exchange functionality cannot guarantee that an order that routes or rests on the book to execute against incoming orders will be executed for the minimum requested amount.

• *Post Only Order:* An order the System ranks and executes pursuant to proposed Rule 6.12, subjects to the Price Adjust process pursuant to Rule 6.12, or cancels (including if it is not subject to the Price Adjust process and it would lock or cross a Protected Quotation on another exchange), as applicable (in accordance with User instructions), except the order may not remove liquidity from the Book or route away to another Exchange. This proposed instructions is nearly identical to the C2 Only/Book Only order instruction, except it will also not remove liquidity from the Book. The Exchange currently has a maker-taker fee structure, pursuant to which an execution taking liquidity from the Book is subject to a taker fee. This proposed instruction provides Users with flexibility to avoid incurring a taker fee if their intent is to submit an order to add liquidity to the Book.

• *Reserve Order:* A limit order with both a portion of the quantity displayed (''Display Quantity'') and a reserve portion of the quantity (''Reserve Quantity'') not displayed. Both the Display Quantity and Reserve Quantity of the Reserve Order are available for potential execution against incoming orders. When entering a Reserve Order, a User must instruct the Exchange as to the quantity of the order to be initially displayed by the System (''Max Floor''). If the Display Quantity of a Reserve Order is fully executed, the System will, in accordance with the User's instruction, replenish the Display Quantity from the Reserve Quantity

[9] EDGX Rule 11.6(b) (which relates to the EDGX Equities market) contains a similar Cancel Back instruction.

[10] *See* EDGX Rule 21.1(g).

using one of the below replenishment instructions. If the remainder of an order is less than the replenishment amount, the System will display the entire remainder of the order. The System creates a new timestamp for both the Display Quantity and Reserve Quantity of the order each time it is replenished from reserve.

○ *Random Replenishment:* An instruction that a User may attach to an order with Reserve Quantity where the System randomly replenishes the Display Quantity for the order with a number of contracts not outside a replenishment range, which equals the Max Floor plus and minus a replenishment value established by the User when entering a Reserve Order with a Random Replenishment instruction.

○ *Fixed Replenishment:* For any order for that a User does not select Random Replenishment, the System will replenish the Display Quantity of an order with the number of contracts equal to the Max Floor.

Current C2 Rule 6.10(c)(8) describes current reserve order functionality available on C2. The proposed functionality is generally the same as the current C2 functionality but enhances the use of reserve orders by providing flexibility for Users to determine whether the reserve replenishment amount is fixed or random. This proposed functionality is substantively the same as that available on BZX.[11]

The Exchange will provide access to the C2 System to Users through various ports, as is the case on EDGX. There are three different types of ports: Physical ports, logical ports, and bulk order ports. The Exchange notes a bulk order port is a type of logical port, and there are other types of logical ports not specifically identified in the proposed rule. The Exchange believes a separate definition is warranted for bulk order ports given the specific functionality provided through such ports but that other types of logical ports are sufficiently described in the proposed definition of logical port.

The proposed rule change defines the term ''port'' to the Rule 1.1, including the following type of ports:[12]

• A ''physical port'' provides a physical connection to the System. A physical port may provide access to multiple logical ports.

• A ''logical port'' or ''logical session'' provides the ability within the System to accomplish a specific function through a connection, such as order entry, data receipt, or access to information (for example, as discussed below, certain risk control settings may be input by port).

• A ''bulk order port'' is a dedicated logical port that provides 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 noted below, quoting functionality will not be available to Market-Makers after the technology migration. This bulk order functionality will provide Market-Makers with a way to submit orders that simulate current quoting functionality. Bulk order messages will not route to other exchanges with use of the Post Only instruction, which is consistent with current quoting functionality that does not route Market-Maker quotes. Additionally, Market-Makers generally enter new quotes at the beginning of each trading day based on then-current market conditions, and the Day or GTD (with an expiration time on that trading day) Time-in-Force instruction is consistent with this practice. Because these messages will be used to add liquidity to the Book, the Exchange will make this type of port available to all Users to encourage all Users to provide liquidity to the C2 market. This functionality is substantively the same as port functionality available on EDGX.

Port is the term the Exchange will use to describe the connection a User will use to connect to the System following the technology migration. Currently, the Exchange refers to System connections as logins, but the functionality is generally the same.

The proposed rule change restricts the type of messages that may be submitted through bulk order ports to orders designated as Post Only Orders with a Time-in-Force of Day or GTD with an expiration time on that trading day. Based on definitions described in this rule filing, Post Only Orders with a Time-in-Force of Day or GTD will be posted to and displayed by the Exchange, rather than remove liquidity or route to another options exchange. As a general matter, and as further described below, the proposed change is intended to limit the use of bulk order ports to liquidity provision, particularly by, but not limited to, Market-Makers. In turn, the Exchange believes it is unnecessary to allow orders entered via bulk order entry ports to be able to last beyond the trading day on which they were entered. The Exchange notes that while, as a general matter, bulk order entry provides an efficient way for a market participant to conduct business on the Exchange by allowing the bundling of multiple instructions in a single message, the main purpose of such functionality has always been to encourage quoting on exchanges.[13]

The Exchange proposes to provide this functionality, which is more similar to quoting functionality currently available on C2. In particular, EDGX has never differentiated between a quote or an order on entry. Rather, Users on EDGX submit orders to the Exchange regardless of the Capacity (*i.e.,* Customer, Market-Maker, or other Non-Market-Maker professional) of the order and regardless of the intended result from submitting such order (*e.g.,* to remove liquidity, post and display liquidity on EDGX, or route to another market). Following migration, C2 will similarly not differentiate between a quote or an order entry. Of course, an order that is posted and displayed on the Exchange is a quotation and the Exchange does maintain various requirements regarding quotations and quoting on the Exchange. The Exchange, however, reiterates that C2 currently distinguishes between orders and quotes, with quotes being required of and only available to registered Market-Makers. In contrast, following migration, in order to quote on the Exchange, a User (including a Market-Maker) will submit an order. While the Exchange does not propose to limit bulk order entry functionality to Market-Makers on the Exchange, the Exchange does propose to limit the type of messages that may be submitted through bulk order entry ports in order to mimic the quoting functionality offered by C2 today.

As noted above, the proposed rule change adds the Time-in-Force option Good-til-Date, which is similar to Good-til-Date functionality available on EDGX.[14] For an order so designated, if after entry into the System, the order is not fully executed, the order (or any unexecuted portion) remains available for potential display or execution until a date and time specified by the entering User unless cancelled by the entering User. This Time-in-Force option will

[11] *See* BZX Rule 21.1(d)(1).

[12] *See* EDGX Rule 21.1(j).

[13] For instance, when initially adopted by BZX, bulk order entry was described as a ''bulk-quoting interface'' and such functionality was limited to BZX market makers. *See* Securities Exchange Act Release No. 65133 (August 15, 2011), 76 FR 52032 (August 19, 2011) (SR–BATS–2011–029). Bulk quoting was shortly thereafter expanded to be available to all participants on BZX's options platform but the focus remained on promoting liquidity provision on the Exchange, even though the types of messages permitted were not limited to liquidity providing orders. *See* Securities Exchange Act Release No. 65307 (September 9, 2011), 76 FR 57092 (September 15, 2011) (SR–BATS–2011–034).

[14] *See* EDGX Rule 21.1(f)(1) and (3).

provide Users with additional flexibility regarding the handling of their orders on the System. It will permit Users' orders to be automatically cancelled at specified dates and times rather than require Users to manually cancel GTC orders at those times.

The proposed rule change also deletes the following defined terms. While these terms are used in rules C2 incorporates by reference to Cboe Options rules, these terms are not currently used in the text of the C2 rulebook:

- Aggregate Exercise Price
- American-style Option
- Capped-style Option
- Closing Purchase Transaction
- Closing Writing Transaction
- Covered
- European-style Option
- Opening Purchase Transaction
- Opening Writing Transaction
- Principal Shareholder
- Quarterly Option Series
- Security Future-Option Order
- Uncovered

The proposed rule change deletes the terms Participant and Permit Holder, which both mean a Trading Permit Holder, another defined term. To simplify the C2 rulebook, the Exchange proposes to have one term refer to a Trading Permit Holder and makes conforming changes throughout the Rules.

The proposed rule change adds Interpretation and Policy .01 to Rule 1.1, which states to the extent a term is used in any Rules incorporated by reference to Cboe Options rules and not otherwise defined in the Rules, the term will have the meaning set forth in the Cboe Options rules. To the extent a market participant is reviewing an incorporated by reference rule, the Exchange believes it is appropriate to direct market participants to the Cboe Options rulebook for the definitions of terms used in that rule, because that rule essentially incorporates the definition of any defined terms used in that rule. The Exchange believes it is simpler and less confusing to refer market participants to the Cboe Options rulebook for definitions than to refer them back to the C2 rulebook.

The proposed rule change moves Interpretation and Policy .01 to the defined term Professional to Interpretation and Policy .02 at the end of Rule 1.1, as the Exchange believes it is less confusing to have all Interpretations and Policies to a rule located in the same place. The proposed rule change adds a cross-reference to this Interpretation and Policy to the definition of Professional.

The proposed rule change deletes the term Voluntary Professional, as that Capacity designation will no longer be available on C2. It is currently unavailable on EDGX.

Finally, the proposed rule change makes nonsubstantive changes throughout the definitions in Rule 1.1, including to conform language throughout the rules, to conform language to corresponding EDGX rules, and to use plain English.

Proposed C2 Rule 1.2 states the Exchange announces to Trading Permit Holders all determinations it makes pursuant to the Rules via (a) specifications, Notices, or Regulatory Circulars with appropriate advanced notice, which will be posted on the Exchange's website, or as otherwise provided in the Rules, (b) electronic message, or (c) other communication method as provided in the Rules. Current C2 Rules states the Exchange will generally announce determinations by Regulatory Circular, and the proposed rule expands the different type of documents that may be used to announce determinations, consistent with EDGX. Proposed Rule 1.2 makes clear this information will be available on C2's website in an easily accessible manner, regardless of the manner in which the Exchange announces it. Additionally, certain determinations are made more real-time pursuant to electronic message received by Trading Permit Holders (*e.g.,* providing intra-day relief for parameter settings in in price protection mechanisms described in proposed Rule 6.14, Interpretation and Policy .01, other determinations related to need to maintain fair and orderly market). This single rule simplifies the Rules by eliminating the need to repeatedly state in the rules how the Exchange will announce determinations. The proposed rule change makes conforming changes throughout the Rules.

Proposed C2 Rule 1.3 states unless otherwise specified, all times in the Rules are Eastern Time, except for times in Rules incorporated by reference to Cboe Options rules, which are times as set forth in the applicable Cboe Options rules. Current C2 Rules are generally in Chicago time, so the proposed rule change makes conforming changes throughout the Rules. This single rule simplifies the Rules by eliminating the need to repeatedly state times are in Eastern Time.

Chapter 3

The proposed rule change moves the provision regarding Exchange affiliations with Trading Permit Holders from current Rule 3.2(f) to proposed Rule 3.16. Current Rule 3.2(f) prohibits the Exchange from acquiring or maintaining an ownership interest in a Trading Permit Holder, as well as prohibits Trading Permit Holder affiliations with the Exchange or an affiliate of the Exchange without prior Commission approval. Current exceptions include equity interests in CBSX LLC and affiliations with OneChicago, LLC. EDGX Rule 2.10 contains similar restrictions on Exchange affiliations with EDGX Members, but also contains additional exceptions, including (a) a Member's acquisition of an equity interest in Cboe Global that is permitted by the ownership and voting limitations contained in the Certificate of Incorporation and Bylaws of Cboe Global, (b) affiliations solely by reason of a Member (or any officer, director, manager, managing member, partner, or affiliate of such Member) becoming a director of the Exchange or Cboe Global, or (c) affiliations with Cboe Trading or other Cboe-affiliated exchanges. Cboe Global and C2 governing documents (which have been filed with the Commission) describe any applicable restrictions on equity ownership of Cboe Global, as well as criteria for directors of C2 and Cboe Global Markets. Additionally, C2 governing documents are substantially similar to those of EDGX, and C2 and EDGX have the same parent company (C2 Global). As discussed below, C2's affiliation with Cboe Trading has recently been approved by the Commission. Therefore, the proposed rule change adds to Rule 3.16 similar exclusions from the affiliation prohibition contained in EDGX Rule 2.10, as the same affiliate restrictions apply to both exchanges and are consistent with governing documents of C2 and Cboe Global previously filed with the Commission.

The proposed rule change adopts Rule 3.17 to govern the Exchange's use of Cboe Trading as an outbound router. Proposed Rule 3.17 is based on EDGX Rule 2.11. As long as Cboe Trading is affiliated with C2 and is providing outbound routing of orders from C2 to other securities exchanges, facilities of securities exchanges, automated trading systems, electronic communications networks or other brokers or dealers (''Trading Centers'' and, such function of Cboe Trading is referred to as the ''Outbound Router''), Cboe Trading's outbound routing services would be subject to the following conditions and limitations:

- C2 will regulate the Outbound Router function of Cboe Trading as a facility (subject to Section 6 of the Act),

and will, among other things, be responsible for filing with the Commission rule changes and fees relating to the Cboe Trading Outbound Router function and Cboe Trading will be subject to exchange non-discrimination requirements; [sic]

• FINRA, a self-regulatory organization unaffiliated with the Exchange or any of its affiliates, will carry out oversight and enforcement responsibilities as the designated examining authority designated by the Commission pursuant to Rule 17d–1 of the Act with the responsibility for examining Cboe Trading for compliance with applicable financial responsibility rules.

• A Trading Permit Holder's use of Cboe Trading to route orders to another Trading Center will be optional. Any Trading Permit Holder that does not want to use Cboe Trading may use other routers to route orders to other Trading Centers.

• Cboe Trading will not engage in any business other than (a) its Outbound Router function, (b) its Inbound Router function as described in Rule 3.18, (c) its usage of an error account in compliance with proposed paragraph (a)(7) below, and (d) any other activities it may engage in as approved by the Commission.

• The Exchange will establish and maintain procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and its facilities (including Cboe Trading), and any other entity, including any affiliate of Cboe Trading, and, if Cboe Trading or any of its affiliates engages in any other business activities other than providing routing services to the Exchange, between the segment of Cboe Trading or its affiliate that provides the other business activities and the routing services.

• The Exchange or Cboe Trading may cancel orders as either deems to be necessary to maintain fair and orderly markets if a technical or systems issue occurs at the Exchange, Cboe Trading, or a routing destination. The Exchange or Cboe Trading will provide notice of the cancellation to affected Trading Permit Holders as soon as practicable.

• Cboe Trading will maintain an error account for the purpose of addressing positions that are the result of an execution or executions that are not clearly erroneous under Rule 6.29 and result from a technical or systems issue at Cboe Trading, the Exchange, a routing destination, or a non-affiliate third-party Routing Broker that affects one or more orders (''Error Positions'').

○ For purposes of proposed Rule 3.17(a)(7), an Error Position will not include any position that results from an order submitted by a Trading Permit Holder to the Exchange that is executed on the Exchange and automatically processed for clearance and settlement on a locked-in basis.

○ Except as provided in proposed subparagraph (7)(C) (described in the next bullet), Cboe Trading does not accept any positions in its error account of a Trading Permit Holder or permit any Trading Permit Holder to transfer any positions from the Trading Permit Holder's account to Cboe Trading's error account.

○ If a technical or systems issue results in the Exchange not having valid clearing instructions for a Trading Permit Holder to a trade, Cboe Trading may assume the Trading Permit Holder's side of the trade so that the trade can be automatically processed for clearance and settlement on a locked-in basis.

○ In connection with a particular technical or systems issue, Cboe Trading or the Exchange will either assign all resulting Error Positions to the Trading Permit Holders in accordance with proposed subparagraph (D)(i),[15] or have all resulting Error Positions liquidated in accordance with proposed subparagraph (D)(ii).[16] Any determination to assign or liquidate Error Positions, as well as any resulting assignments, will be made in a nondiscriminatory fashion.

○ Cboe Trading and the Exchange will make and keep records to document all determinations to treat positions as Error Positions and all determinations for the assignment of Error Positions to Trading Permit Holders or the liquidation of Error Positions, as well as records associated with the liquidation of Error Positions through the third-party broker-dealer.

• The books, records, premises, officers, agents, directors, and employees of Cboe Trading as a facility of the Exchange are deemed to be the books, records, premises, officers, agents, directors, and employees of the Exchange for purposes of, and subject to oversight pursuant to, the Exchange Act. The books and records of Cboe Trading as a facility of the Exchange are subject at all times to inspection and copying by the Exchange and the Commission. Nothing in the Rules precludes officers, agents, directors, or employees of the Exchange from also serving as officers, agents, directors, and employees of Cboe Trading.

The Exchange will comply with the above-listed conditions prior to offering outbound routing from Cboe Trading. In meeting the conditions, the Exchange will have mechanisms in place to protect the independence of the Exchange's regulatory responsibility with respect to Cboe Trading, as well as demonstrate the Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage. Current Rule 3.2(f) and proposed Rule 3.16 provide that without prior Commission approval, no Trading Permit Holder may be or become affiliated with the Exchange. The Commission recently approved the adoption of Rule 3.18 regarding Cboe Trading (a C2 Trading Permit Holder) as the Inbound Router for C2.[17] Such approval satisfies the requirement in current Rule 3.2(f) (and proposed Rule 3.16) for Commission approval of the Exchange affiliation with Cboe Trading.[18]

Chapter 6

The proposed rule change adds a reference to C2 Rule 6.1 regarding the times at which the System accepts orders and quotes, which are set forth in

[15] Proposed subparagraph (a)(7)(D)(i) states Cboe Trading or the Exchange will assign all Error Positions resulting from a particular technical or systems issue to the Trading Permit Holders affected by that technical or systems issue if Cboe Trading or the Exchange (a) determines it has accurate and sufficient information (including valid clearing information) to assign the positions to all of the Trading Permit Holders affected by that technical or systems issue; (b) determines it has sufficient time pursuant to normal clearance and settlement deadlines to evaluate the information necessary to assign the positions to all of the Trading Permit Holders affected by that technical or systems issue; and (c) has not determined to cancel all orders affected by that technical or systems issue in accordance with proposed subparagraph (a)(6).

[16] Proposed subparagraph (a)(7)(D)(ii) states if Cboe Trading or the Exchange is unable to assign all Error Positions resulting from a particular technical or systems issue to all of the affected Trading Permit Holders in accordance with proposed subparagraph (D), or if Cboe Trading or the Exchange determines to cancel all orders affected by the technical or systems issue in accordance with proposed subparagraph (a)(6), then Cboe Trading will liquidate any applicable Error Positions as soon as practicable. In liquidating such Error Positions, Cboe Trading will (a) provide complete time and price discretion for the trading to liquidate the Error Positions to a third-party broker-dealer and not attempt to exercise any influence or control over the timing or methods of such trading; and (b) establish and enforce policies and procedures that are reasonably designed to restrict the flow of confidential and proprietary information between the third-party broker-dealer and Cboe Trading/the Exchange associated with the liquidation of the Error Positions.

[17] *See* Securities Exchange Act Release No. 82952 (March 27, 2018), 83 FR 14096 (April 2, 2018) (SR–C2–2018–004).

[18] The proposed rule change makes nonsubstantive changes to Rule 3.18, including updating paragraph numbering and lettering and reflecting the defined term Cboe Trading and Cboe Exchange.

proposed C2 Rule 6.9 (as discussed below). The proposed rule change also adds Units to the list of options that the Exchange designates to remain open for trading beyond 4:00 p.m. but no later than 4:15 p.m., which is consistent with EDGX rules.[19] The proposed rule change also deletes Interpretation and Policy .03 regarding the trading hours of Quarterly Index Expiration options, as they currently do not and will not trade on C2 upon the System migration.

The proposed rule change reformats C2 Rule 6.4 regarding the minimum increments for bids and offers on simple orders for options traded on the Exchange into a table, which the Exchange believes is easier to read, and moves certain information into Interpretations and Policies .01 and .02. The only substantive change is to provide that Mini-SPX Index (XSP) options, for as long as SPDR options (SPY) participate in the Penny Pilot Program, will have a $0.01 increment for all series rather than $0.01 for all series quoting less than $3 and a $0.05 for all series quoting more than $3. The current minimum increments for bids and offers for SPY options, which is an exchange-traded fund that tracks the performance of 1/10th the value of the S&P 500 Index, is $0.01 regardless of whether option series is quoted above, at, or below $3. Because both XSP options and SPY options prices are based, in some manner, on 1/10th the price of the S&P 500 Index, the Exchange believes that it is important that these products have the same minimum increments for consistency and competitive reasons. This is also consistent with rules of other exchanges.[20] The proposed rule change also modifies the paragraph formatting and moves certain provisions to the Interpretations and Policies.

Current C2 Rule 6.34 describes current provisions regarding System access and connectivity, and the proposed rule change moves relevant provisions to proposed Rule 6.8. As stated in proposed Rule 6.8(a), only authorized Users and associated persons of Users may establish connectivity to and access the Exchange to submit orders and quotes and enter auction response in accordance with the Exchange's System access procedures, technical specifications, and requirements. This is consistent with current Rule 6.34(a), (d), and (e), which provides only authorized market participants (which may only be Trading Permit Holders and associated persons with authorized access, as well as Sponsored Users pursuant to C2 Rule 3.15) may access the Exchange electronically to facilitate quote and order entry as well as auction processing, in accordance with Exchange-prescribed technical specifications (to the extent any agreement is required to be signed, as indicated in current Rule 6.34(d), that would be indicated in such specifications).

Proposed Rule 6.8(b) describes EFIDs. A Trading Permit Holder may obtain one or more EFIDs from the Exchange (in a form and manner determined by the Exchange). The Exchange assigns an EFID to a Trading Permit Holder, which the System uses to identify the Trading Permit Holder and clearing number for the execution of orders and quotes submitted to the System with that EFID. Each EFID corresponds to a single Trading Permit Holder and a single clearing number of a Clearing Trading Permit Holder with the Clearing Corporation. A Trading Permit Holder may obtain multiple EFIDs, which may be for the same or different clearing numbers. A Trading Permit Holder may only identify for any of its EFIDs the clearing number of a Clearing Trading Permit Holder that is a Designated Give Up or Guarantor of the Trading Permit Holder as set forth in Rule 6.30. A Trading Permit Holder is able (in a form and manner determined by the Exchange) to designate which of its EFIDs may be used for each of its ports. If a User submits an order or quote through a port with an EFID not enabled for that port, the System cancels or rejects the order or quote. The proposed rule change regarding EFIDs is similar to the current use of acronyms on the Exchange and consistent with the use of EFIDs on EDGX. The Exchange believes including a description of the use of EFIDs in the Rules adds transparency to the Rules.

Consistent with the definition of port above, the proposed rule change adds Rule 6.8(c), which states a User may connect to the Exchange using a logical port available through an API, such as the industry-standard Financial Information eXchange (''FIX'') protocol or Binary Order Entry (''BOE'') protocol (Cboe Market Interface will no longer be available, as that is an API on C2's current system while BOE is an API available on the new technology platform). Users may use multiple logical ports. Additionally, this functionality is similar to bandwidth packets currently available on C2, as described in current Rule 6.35 (and therefore which the proposed rule change deletes). Bandwidth packets restrict the maximum number of orders and quotes per second in the same way logical ports do, and Users may similarly have multiple logical ports as they may have bandwidth packets to accommodate their order and quote entry needs. The Exchange believes it is reasonable to not limit bulk order ports, as the purpose of those ports is to submit message orders in bulk. As discussed below, the Exchange will be able to otherwise mitigate message traffic as necessary.

Proposed Rule 6.9 describes the entry of orders. Users can enters into the System, or cancel previously entered orders, from 7:30 a.m. until market close, subject to the following requirements and conditions:

(a) Users may transmit to the System multiple orders at a single price level or multiple price levels;

(b) Each order a User submits to the Exchange must contain the minimum information identified in the Exchange's order entry specifications;

(c) The System timestamps an order upon receipt, which determines the time ranking of the order for purposes of processing the order; and

(d) For each System Security, the System transmits to OPRA for display the aggregate size of all orders in the System eligible for display at the best price to buy and sell.

(e) After market close, Users may cancel orders with Time in Force of GTC or GTD that remain on the book until 4:45 p.m.

Pursuant to current Rule 6.11(a), the Exchange begins accepting order and quotes no earlier than 2:00 a.m. Chicago time, so the proposed change amends this time to 7:30 a.m. Eastern time to be consistent with EDGX.[21] The Exchange notes C2 currently begins accepting orders and quotes at approximately 6:30 a.m. Chicago time, which is consistent with the proposed rule change, and thus the proposed rule change will not modify the time at which the Exchange begins accepting orders and quotes. The provisions in paragraphs (a) through (d) above are consistent with current C2 System functionality, and the Exchange believes adding these provisions to the Rules provides additional transparency for market participants. They are also substantively the same as EDGX rules.[22] Paragraph (e) above provides Users with additional flexibility to manage their orders that remain in the book following the market close. Cancelling a GTC or GTD order at 4:30 p.m. has the same

[19] *See, e.g.,* EDGX Rule 21.2(a) (referred to as Fund Shares and exchange-traded notes in that rule); *see also* Cboe Options Rule 6.1, Interpretation and Policy .03.

[20] *See, e.g.,* Cboe Options Rule 6.42, Interpretation and Policy .03.

[21] *See* EDGX Rule 21.7(a).

[22] *See* EDGX Rule 21.6(a) through (d).

effect as cancelling that order at 7:30 a.m. the following day—ultimately, it accommodates the User's goal of cancelling an order prior to it potentially executing during the Opening Process the following morning.

Proposed C2 Rule 6.10 states the Exchange may determine to make certain order types, Order Instructions, and Times in Force not available for all Exchange systems or classes. This provision is consistent with current C2 Rule 6.10, which provides the Exchange with similar flexibility. As discussed above, the proposed rule change moves definitions of order types that will be available on C2 following the technology migration to proposed C2 Rule 1.1. The proposed rule change deletes all-or-none and market-on-close orders from Rule 6.10, as they will no longer be available on C2 following the technology migration.[23] Additionally, the proposed rule change maintains a general definition of complex order in proposed C2 Rule 1.1 (as discussed above), but deletes the specific types of complex orders set forth in current Rule 6.10(d) (*i.e.* spread order, combination order, straddle order, strangle order, ratio order, butterfly spread orders, box/roll spread orders, collar orders and risk reversals). While these types of orders will continue to be permitted, the Exchange does not believe it is necessary to limit complex orders to these specific definitions, as investors may determine complex orders of other types are more appropriate with their investment strategies. The EDGX rules do not contain similar definitions and instead only contain a general definition of complex orders. The proposed rule change moves the provisions in Interpretation .01(A) and (C) ((B) is deleted, as it relates to an order type that will no longer be available) to Rule 6.12(c), which will consolidate all provisions regarding order handling in a single location in the Rules.

The proposed rule change deletes current Rule 6.11 regarding the opening process on C2, as that opening process will not be available on C2 following the technology migration. Proposed Rule 6.11 describes the opening process that will apply to C2 following the technology migration, which is substantively the same as the current opening process on EDGX.[24] The proposed opening process is generally similar to the current C2 opening process, as it provides for a pre-opening period and a determination of an opening price subject to certain restrictions to ensure the opening trading price for a series is reasonable and not too far away from the market price for a series. Additionally, the proposed process is used following a trading halt.

Proposed Rule 6.11(a) describes the order entry period. The System accepts orders and quotes (including GTC and GTD orders remaining on the Book from the previous trading day) for inclusion in the opening process (the ''Opening Process'') beginning at 7:30 a.m. and continues to accept market and limit orders and quotes until the time when the System initiates the Opening Process in that option series (the ''Order Entry Period''). The System does not accept IOC or FOK orders prior to the completion of the Opening Process. The System accepts but does not enforce MTP Modifiers during the Opening Process. Complex orders will not participate in the Opening Process described in proposed Rule 6.11, and instead may participate in the COB Opening Process described in proposed Rule 6.13(c). The System converts all ISOs received prior to the completion of the Opening Process into non-ISOs. Orders entered during the Order Entry Period are not eligible for execution until the opening trade occurs, as described below. Pursuant to current C2 Rule 6.11(a), the System begins accepting orders and quotes no earlier than 2:00 a.m. central time (that time is currently set to 7:30 a.m. eastern time). The Exchange believes beginning the order entry period at 7:30 a.m. eastern time will provide Users with sufficient time to submit orders and quotes prior to the beginning of the Opening Process. This time is the same as when the order entry period on C2 (and EDGX) currently begins. C2 currently also does not accept IOC or FOK orders during the pre-opening period (see current Rule 6.11(a)(1)), and it also does not accept ISOs (see current Rule 6.11(a)(1)) (rather than convert them to non-ISOs). The proposed functionality to convert ISOs to non-ISOs is the same as functionality that exists on EDGX today, and the Exchange believes this may increase the opportunity for execution of these orders during the Opening Process.

Following the technology migration, the C2 System will not have functionality available to disseminate opening messages as it does today, so the proposed rule change deletes current Rule 6.11(a)(2). Additionally, when the Opening Process begins, the System will not disseminate a notice as it does today, so the proposed rule change deletes current Rule 6.11(b) and (c)(2).

Following the technology migration, the Opening Process will be initiated at a similar time as it is today on C2. Proposed Rule 6.11(a) states after a time period (which the Exchange determines for all classes) following the first transaction in the securities underlying the options on the primary market that is disseminated (''First Listing Market Transaction'') after 9:30 a.m. with respect to Equity Options, or following 9:30 a.m. with respect to Index Options, the related option series open automatically in a random order, staggered over regular intervals of time (the Exchange determines the length and number of these intervals for all classes) pursuant to proposed subparagraphs (2) through (5). This is substantively the same as EDGX Rule 21.7(a). The proposed times will be the same for all classes of Equity Options, and all classes of Index Options, unlike currently on C2 (see current Rule 6.11(b)), where the opening of certain equity classes is triggered by time rather than the First Listing Market Transaction, and the opening of certain index classes is triggered by the receipt of a disseminated index value. Additionally, current C2 Rule 6.11(c) provides for a similar Exchange-configurable delay before a series opens and provides for series to open in a random, staggered order over Exchange-determined time intervals.

Proposed Rule 6.11(a)(2) describes how the new C2 System will calculate the opening price of a series. The System determines a single price at which a particular option series will be opened (the ''Opening Price'') within 30 seconds of the First Listing Market Transaction or 9:30 a.m., as applicable. If there are no contracts in a series that would execute at any price, the System will open the series for trading without determining an Opening Price. The Opening Price, if determined to be valid as described below, of a series will be:

(a) If there is both an NBB and NBO, the midpoint of the NBBO (if the midpoint is a half increment, the System rounds down to the nearest minimum increment (the ''NBBO Midpoint'');

(b) if the NBBO Midpoint is not valid, the last disseminated transaction price in the series after 9:30 a.m. (the ''Last Print''); or

(c) if the NBBO Midpoint and the Last Print are not valid, the last disseminated transaction in the series from the previous trading day (the ''Previous Close'').

If the NBBO Midpoint, Last Print, and Previous Close are not valid, the

[23] The proposed rule change makes conforming changes throughout the rules to delete references to these order types and provisions solely related to these order types.

[24] *See* EDGX Rule 21.7.

Exchange in its discretion may extend the Order Entry Period by up to 30 seconds or open the series for trading.

For purposes of validating the Opening Price:

(a) the NBBO Midpoint, the Last Print, or the Previous Close is a valid price if it is not outside the NBBO, and the price is no more than the following Minimum Amount away from the NBB or NBO for the series:

NBB	Minimum amount
Below $2.00	$0.25
$2.00 to $5.00	0.40
Above $5.00 to $10.00	0.50
Above $10.00 to $20.00	0.80
Above $20.00 to $50.00	1.00
Above $50.00 to $100.00	1.50
Above $100.00	2.00

or

(b) the Last Print or Previous Close is a valid price if there is no NBB and no NBO, or there is a NBB (NBO) and no NBO (NBB) and the price is equal to or greater (less) than the NBB (NBO).

While these conditions to determine the validity of an opening price differ than the opening conditions currently applied on C2, the Exchange believes application of the proposed conditions will still determine a reasonable and fair opening price for series on C2. The proposed process to determine and validate an Opening Price is substantively the same as the process currently used on EDGX.[25]

Proposed Rule 6.11(a)(4) states after establishing a valid Opening Price, the System matches orders and quotes in the System that are priced equal to or more aggressively than the Opening Price in accordance with priority applicable to the class pursuant to Rule 6.12. In other words, the System allocates orders and quotes in a class during the Opening Process using the same allocation from Rule 6.12(a) the Exchange applies to the class intraday. Matches occur until there is no remaining volume or an imbalance of orders. All orders and quotes (or unexecuted portions) matched pursuant to the Opening Process will be executed at the Opening Price. The System enters any non-executed orders and quotes (or unexecuted portions) into the Book in time sequence, where they may be processed in accordance with Rule 6.12. The System cancels any OPG orders (or unexecuted portions) that do not execute during the Opening Process. Proposed subparagraph (a)(5) states if the Exchange opens a series for trading when the NBBO Midpoint, Last Print, and Previous Close are not valid as described above, the System enters non-executed orders and quotes (or unexecuted portions) into the Book in time sequence, where they may be processed in accordance with Rule 6.12. This is similar to the opening rotation period described in current Rule 6.11(c) and Interpretation and Policy .01.[26] While EDGX and C2 have different matching algorithms consistent with their market models, the proposed opening process represents a fair and objective manner to match orders during the opening. Additionally, proposed Rule 6.11 indicates the opening process will generally occur within 30 seconds (or an extended time at the discretion of the Exchange as noted above), while current Rule 6.11 indicates the opening process generally must occur within 60 seconds (subject to various opening conditions).

Proposed Rule 6.11(a)(5) provides if the Exchange opens a series for trading when the NBBO Midpoint, Last Print, and Previous Close are not valid as described above, the System enters non-executed orders and quotes (or unexecuted portions) into the Book in time sequence, where they may be posted, cancelled, executed, or routed in accordance with proposed Rule 6.12. This is similar C2's current authority to compel opening in a series even if the opening conditions are not met, as set forth in current Rule 6.11(e).

Proposed Rule 6.11(b) describes how the Opening Process will be used to reopen trading following a halt. The Opening Process following a trading halt will be the same as the one used for regular trading (as described above), except as modified by proposed paragraph (b). Proposed Rule 6.11(b)(1) states there will be an Order Entry Period that begins immediately when the Exchange halts trading in the series if there is a Regulatory Halt (*i.e.* if the primary market for the applicable underlying security declares a regulatory trading halt, suspension, or pause with respect to such security); however, there will be no Order Entry Period if the Exchange halts for another reason. This is consistent with current Rule 6.11(f), which permits the Exchange to shorten or eliminate the pre-opening period after a halt. Proposed Rule 6.11(b)(2) states the System queues a User's open orders upon a Regulatory Halt, unless the User entered instructions to cancel its open orders upon a Regulatory Halt, for participation in the Opening Process following the Regulatory Halt. The System cancels a User's open orders upon a halt that is not a Regulatory Halt. This functionality will provide Users with additional flexibility to instruct the System how to handle their orders in the event of a Regulatory Halt. Following a trading halt, the System opens a series once the primary market lifts the Regulatory Halt or upon the Exchange's determination that the conditions that led to the halt are no longer present or that the interests of a fair and orderly market are best served by a resumption of trading, as described in proposed Rule 6.11(b)(3). Pursuant to proposed Rule 6.11(b)(4), the System determines the Opening Price within 30 seconds of the Regulatory Halt or other trading halt being lifted. The Exchange believes this proposed process for opening following a halt will permit C2 to reopen as quickly as possible and in a fair and orderly manner following a halt. The proposed rule change regarding how the System will open following a trading halt is substantively similar to the Opening Process that may be used following a trading halt described in EDGX Rule 21.7(a).

The proposed rule change moves current Rule 6.11(e) regarding the Exchange's ability to deviate from the standard opening procedure to proposed Rule 6.11(c).

Current C2 Rule 6.11 may be used for closing; however, the proposed rule change only applies to openings. Because C2 generally does not use its current process for a closing, the Exchange does not believe the fact that the proposed process may only be used for openings following the technology migration will impact trading on C2. Therefore, the proposed rule change deletes current C2 Rule 6.11(g).

The proposed rule change moves current Rule 6.11, Interpretation and Policy .03 regarding how the System handles market orders if the underlying security is in a limit up-limit down state during the opening process to proposed Rule 6.11(d).

Proposed Rule 6.11 is substantively the same as EDGX Rule 21.7, and the Exchange believes the proposed opening process (based on current use on EDGX) is a fair and orderly way to open series on C2 following the technology migration.

The proposed rule change deletes current Rule 6.11, Interpretation and Policy .02 regarding Exchange determinations made pursuant to Rule 6.11, as that is replaced by proposed Rule 1.2.

Proposed Rule 6.12 describes how the System will process, display, prioritize,

[25] *See* EDGX Rule 21.7(a)(1) and (2).

[26] The Exchange does not intend to have a different algorithm apply at the open and intraday, and therefore proposes to delete current Rule 6.11, Interpretation and Policy .01.

and execute orders and quotes entered into the Book. Current C2 Rule 6.12 provides orders and quotes may be allocated pursuant to price-time or pro-rata, and those two options will also be available on the new System. The proposed rule change revises the description to be similar to EDGX and BZX Rules 21.8. Proposed Rule 6.12(a)(1) states resting orders and quotes [27] in the Book with the highest bid and lowest offer have priority.[28] Proposed Rule 6.12(a)(2) states if there are two or more resting orders or quotes at the best price, the Exchange will determine for each class whether the time or pro-rata allocation applies. Pursuant to time priority (*i.e.* price-time), the System prioritizes orders and quotes at the same price in the order in which the System receives them (*i.e.* in time priority).[29] Pursuant to pro-rata priority, the System allocates orders and quotes proportionally according to size (*i.e.* in a pro-rata basis).[30] All classes on EDGX are allocated in a pro-rata manner; however, current C2 rules permit the Exchange to determine for each class whether price-time or pro-rata will apply, and the proposed rule change maintains that flexibility.

Currently on C2, with respect to the pro-rata allocation algorithm, the System allocates contracts to the first resting order or quote proportionally according to size (based on the number of contracts to be allocated and the size of the resting orders and quotes). Then, the System recalculates the number of contracts to which each remaining resting order and quote is afforded proportionally according to size (based on the number of remaining contracts to be allocated and the size of the remaining resting orders and quotes) and allocates contracts to the next resting order or quote. The System repeats this process until it allocates all contracts from the incoming order or quote. Following the System migration, the System instead will allocate executable quantity to the nearest whole number, with fractions ½ or greater rounded up (in size-time priority) and fractions less than ½ rounded down. If the executable quantity cannot be evenly allocated, the System distributes remaining contracts one at a time in size-time priority to orders that were rounded down. The Exchange believes this is a fair, objective process and simple systematic process to allocate ''extra'' contracts when more than one market participant may be entitled to those extra contracts after rounding, and it is consistent with EDGX Rule 21.8(c).

Proposed Rule 6.12(a)(3) states displayed orders have priority over nondisplayed orders. This is consistent with current C2 Rule 6.12(c)(1). Following migration, the only nondisplayed orders will be the reserve portions of reserve orders (as discussed above, all-or-none orders will no longer be available).

The proposed rule change deletes current C2 Rule 6.12(a)(3) and (b), which permit the Exchange to apply customer priority, trade participation rights, or additional priority overlays (small order and market turner) to classes. The Exchange does not currently, and does not intend to, apply any of these priority overlays to any class. Therefore, it is not necessary to include these Rules in the C2 Rulebook, and deleting these rules will have no impact on C2 trading.[31] The proposed rule change makes conforming changes throughout the rules to delete references to these priority overlays.

Proposed Rule 6.12(b) describes a new Price Adjust process, which is a re-pricing mechanism offered to Users on EDGX.[32] As discussed above, orders designated to be subject to the Price Adjust process or not designated as Cancel Back (and thus not subject to the Price Adjust process), will be handled pursuant to proposed Rule 6.12(b).[33] If an order is subject to the Price Adjust process, the System ranks and displays a buy (sell) order that, at the time of entry, would lock or cross a Protected Quotation of the Exchange or another Exchange at one minimum price increment below (above) the current NBO (NBB).

If the NBBO changes so that an order subject to Price Adjust would not lock or cross a Protected Quotation, the System gives the order a new timestamp and displays the order at the price that locked the Protected Quotation at the time of entry. All orders the System re-ranked and re-displayed pursuant to Price Adjust retain their priority as compared to other orders subject to Price Adjust based upon the time the System initially received such orders. Following the initial ranking and display of an order subject to Price Adjust, the System will only re-rank and re-display an order to the extent it achieves a more aggressive price. The System adjusts the ranked and displayed price of an order subject to Price Adjust once or multiple times depending upon the User's instructions and changes to the prevailing NBBO. A limit order subject to the Price Adjust process will not be displayed at any price worse than its limit price. This re-pricing mechanism (in addition to the proposed Cancel Back instruction described above) is an additional way in which C2 will ensure compliance with locked and crossed market rules in Chapter 6, Section of the C2 Rulebook and is substantively the same as EDGX Rule 21.1(i). It also provides Users with additional flexibility regarding how they want the System to handle their orders.

Proposed Rule 6.12(c) describes how the System will handle orders in additional circumstances. Proposed subparagraph (1) states, subject to the exceptions contained in Rule 6.82(b), the System does not execute an order at a price that trades through a Protected Quotation of another options exchange. The System routes an order a User designates as routable in compliance with applicable Trade-Through restrictions. The System cancels or rejects any order not eligible for routing or the Price Adjust process that is entered with a price that locks or crosses a Protected Quotation of another options exchange. C2's System currently will not execute orders at trade-through prices, consistent with Chapter 6, Section E of the Rules. This provision is substantively the same as EDGX Rule 21.6(e) and (f).

Additionally, the proposed rule change modifies the handling of stop orders to state the System cancels or rejects a buy (sell) stop or stop-limit order if the NBB (NBO) at the time the System receives the order is equal to or above (below) the stop price, and accepts a buy (sell) stop or stop-limit order if the consolidated last sale price at the time the System receives the order is equal to or above (below) the stop price.[34] The Exchange believes comparing the stop price of a stop or

[27] Displayed orders and quotes always have priority over undisplayed orders and quotes, which is consistent with current C2 functionality. *See* current Rule 6.12(c)(1) and proposed Rule 6.12(a)(3). Since all-or-none orders will no longer be available on C2 following the technology migration, the only orders that will not be displayed on C2 are the reserve portions of Reserve Orders.

[28] *See* current C2 Rule 6.12(a)(1) and (2) (under both allocation algorithms, orders and quotes are first prioritized based on price); *see also* EDGX Rule 21.8(b).

[29] *See* current C2 Rule 6.12(a)(1); *see also* BZX Rule 21.8(a).

[30] *See* current C2 Rule 6.12(a)(2); *see also* EDGX Rule 21.8(c).

[31] The Exchange notes EDGX Rule 21.8 includes customer priority and trade participation right overlays.

[32] *See* EDGX Rule 21.1(i).

[33] Under EDGX rules, the price adjust process is not the default setting for orders, like it will be for C2. However, EDGX Users still have the option to use or not use the price adjust process with various order instructions. Therefore, this is not a significant difference.

[34] Current description of the handling of stop orders is in current C2 Rule 6.11(i), which is being deleted.

stop-limit order to the NBBO and last consolidated sale price rather than prices available on the Exchange is appropriate, as the NBBO better reflects the market price of the series. This is similar to various price protections in the rules, as discussed below, that compare order prices to national prices rather than Exchange prices. This is also the same as EDGX Rule 21.1(d)(11) and (12), which provide that stop and stop-limit orders on EDGX compare the stop price to the NBBO and last consolidated sale price. The C2 System following the technology migration will be unable to compare the stop price of a stop or stop-limit order to the last consolidated sale price upon receipt of the order, which is why the order will still be accepted even if the stop price is above (below) the last consolidated sale price when the System receives it.

Proposed Rule 6.12(c)(3) states the System cancels or rejects a GTC or GTD order in an adjusted series.[35] Pursuant to Rule 5.7, due to a corporate action by the issuer of the underlying, OCC may adjust the price of an underlying security. After a corporate action and a subsequent adjustment to the existing options, OPRA and OCC identify the series in question with a separate symbol consisting of the underlying symbol and a numerical appendage. As a standard procedure, exchanges listing options on an underlying security that undergoes a corporate action resulting in adjusted series will list new standard option series across all appropriate expiration months the day after the existing series are adjusted. The adjusted series are generally actively traded for a short period of time following adjustment, but prices of those series may have been impacted by the adjustment. As a result, any GTC or GTD orders submitted prior to the adjustment may no longer reflect the market price of the adjusted series, as the prices of the GTC or GTD orders do not factor in the adjustment. The Exchange believes any executions of such GTC and GTD orders in adjusted series may be at erroneous prices, and thus believes it is appropriate for the System to cancel these orders, which will permit Users to resubmit orders in the adjusted series at prices that reflect the adjustment and to submit orders in the new series.

Proposed Rule 6.12(c)(4) states the System does not execute an order with an MTP Modifier entered into the System against an order entered with an MTP Modifier and the same Unique Identifier, and instead handles them in accordance with Rule 1.1, as discussed above. This is consistent with the definition of MTP Modifiers added to Rule 1.1 above and substantively the same as EDGX Rule 21.8(k).

The proposed rule change moves provisions regarding how the System handles market and stop orders during a limit up-limit down state from current Rule 6.10, Interpretation and Policy .01 to proposed Rule 6.12(c)(5).

The proposed rule change deletes current C2 Rule 6.12(c) related to contingency orders. The Exchange does not believe the introductory language and subparagraphs (c)(2) and (3) are necessary, as the order instruction definitions discussed above and order handling instructions below contain detail regarding how the System will handle orders designated as stop, stop-limit, or reserve.[36] The proposed rule change moves the provision in subparagraph (c)(1) regarding priority of displayed orders over nondisplayed orders to proposed Rule 6.12(a)(3), as discussed above. Because all-or-none orders will no longer be available following the technology migration, the proposed rule change deletes subparagraph (c)(4), which relates to handling of all-or-none orders.

The proposed rule change deletes current Rule 6.12(e)(2), which states if the price or quantity of one side of a quote is changed, the unchanged side retains its priority position. Additionally, the proposed rule change deletes the reference in Rule 6.12(e)(1) related to the changed side of a quote. Current C2 functionality provides Market-Maker with the ability to submit two-sided quotes, to which the above provisions relates. Following the technology migration, there will be no such functionality available. Market-Makers will submit quotes using order functionality, but it will only permit one-sided quotes to be input. Therefore, these provisions are no longer applicable.

The proposed rule change deletes current Rule 6.12(g) regarding a complex order priority exception. Proposed Rule 6.13 (as described below) describes the priority rules related to the execution of complex orders, so current Rule 6.12(g) is not necessary. As further discussed below, complex orders will trade with leg markets prior to trading with other complex orders, and will never trade at the same price as the SBBO, which is consistent with current Rule 6.12(g).[37]

The proposed rule change adds proposed Rule 6.12(g), which states options subject to a trading halt initiated pursuant to Rule 6.32 open for trading following the halt at the time specified in Rule 6.11, which is consistent with current Rule 6.11(f). Additionally, proposed Rule 6.12(g) states when trading resumes, the System places orders and quotes that do not execute during the Opening Process in the Book in time priority and processes or executes them as described in Rule 6.12. The Exchange believes this is a fair, objective process and simple systematic process to prioritize orders following a trading halt, and is consistent with EDGX Rule 21.8(j).

Proposed Rule 6.13 modifies C2's current complex order functionality to substantially conform to functionality that will be available on C2's new System and is currently used on EDGX. Trading of complex orders will be subject to all other Rules applicable to trading of orders, unless otherwise provided in Rule 6.13 (which is currently the case).

The proposed rule change moves the definitions of COA and COB to proposed paragraph (a). Additionally, the proposed rule change adds definitions of synthetic best bid or offer (''SBBO'') and synthetic national best bid or offer (''SNBBO'') to proposed paragraph (a), which are referred to in current C2 Rule 1.1 as derivative spread market and national spread market. The proposed rule change also adds the following terms to Rule 6.13(a):

- Complex strategy: The term ''complex strategy'' means a particular combination of components and their ratios to one another. New complex strategies can be created as the result of the receipt of a complex instrument creation request or complex order for a complex strategy that is not currently in the System. The Exchange is thus proposing two methods to create a new complex strategy, one of which is a message that a Trading Permit Holder can send to create the strategy and the other is a message a Trading Permit Holder can send that will generate the strategy and that is also an order in that same strategy. These methods will be equally available to all Trading Permit Holders, but the Exchange anticipates that Trading Permit Holders and other

[35] This is true on any trading day on which the adjusted series continues to trade.

[36] Current C2 rules categorize all-or-none, market-on-close, stop, stop-limit, FOK, IOC, OPG, and reserve orders as contingency orders. As discussed above, the Exchange will no longer make all-or-none and market-on-close orders available following the technology migration. Additionally, the Exchange believes FOK, IOC, and OPG relate to the time of execution of orders rather than a contingency, and thus the proposed rule change categorizes these instructions as Times-in-Force, as discussed above. Therefore, the only current orders that could be deemed contingency under current rules are stop, stop-limit, and reserve.

[37] *See* proposed C2 Rule 6.13(f)(2).

liquidity providers who anticipate providing larger amounts of trading activity in complex strategies are the most likely to send in a complex instrument creation request (*i.e.,* to prepare for their trading in the complex strategy throughout the day), whereas other participants are more likely to simply send a complex order that simultaneously creates a new strategy. The Exchange may limit the number of new complex strategies that may be in the System or entered for an EFID (which EFID limit would be the same for all Users) at a particular time.

• Regular trading: The term ''regular trading'' means trading of complex orders that occurs during a trading session other than (a) at the opening of the COB or re-opening of the COB for trading following a halt (described in paragraph (c) below) or (b) during the COA process (described in proposed Rule 6.13(d)).

These proposed defined terms are the same as those included in EDGX Rule 21.20(a).

Proposed Rule 6.13(b) describes the order types, Order Instructions, and Times-in-Force that are eligible for complex orders to be entered into and handled by the System. As an initial matter, proposed paragraph (b) states the Exchange determines which Times-in-Force of Day, GTC, GTD, IOC, or OPG are available for complex orders (including for eligibility to enter the COB and initiate a COA). The proposed rule change is also consistent with EDGX Rule 21.20(b). Complex orders are Book Only and may be market or limit orders. Because complex orders are not routable, and may not be Post Only, Book Only is the only available Order Instruction related to whether an order is routable or not routable. The only other available Order Instruction for complex orders is Attributable/Non-Attributable. This relates only to information that User wants, or does not want, included when a complex order is displayed, and has no impact on how complex orders are processed or execute. As they do for simple orders, certain Users want the ability to track their orders, such as which of the resting orders in the COB or which COA'd [sic] order is theirs. The Attributable designation means this information will appear in market data feeds and auction messages, permitting these Users to track their own orders.

Proposed paragraph (b) also adds the following instructions that are permissible for complex orders:

• Complex Only Orders: A Market-Maker may designate a Day or IOC order as ''Complex Only,'' which may execute only against complex orders in the COB and may not Leg into the Simple Book. Unless designated as Complex Only, and for all other Times-in-Force and Capacities, a complex order may execute against complex orders in the COB and may Leg into the Simple Book. The Complex Only Order option is analogous to functionality on EDGX. The Exchange also believes the proposed functionality is analogous to other types of functionality already offered by C2 that provides Trading Permit Holders, including Market-Makers, the ability to direct the Exchange not to route their orders away from the Exchange (Book Only). Similar to such analogous features, the Exchange believes that Market-Makers may utilize Complex Only Order functionality as part of their strategies to maintain additional control over their executions, in connection with their attempt to provide and not remove liquidity, or in connection with applicable fees for executions.

• COA-Eligible and Do-Not-COA Orders: The Exchange proposes to allow all types of orders to initiate a COA but proposes to have certain types of orders default to initiating a COA upon arrival with the ability to opt-out of initiating a COA and other types of orders default to not initiating a COA upon arrival with the ability to opt-in to initiating a COA. Upon receipt of an IOC complex order, the System does not initiate a COA unless a User marked the order to initiate a COA, in which case the System cancels any unexecuted portion at the end of the COA. Upon receipt of a complex order with any other Time-in-Force (except OPG), the System initiates a COA unless a User marked the order to not initiate a COA. Buy (sell) complex orders with User instructions to (or which default to) initiate a COA that are higher (lower) than the SBB (SBO) and higher (lower) than the price of complex orders resting at the top of the COB are ''COA-eligible orders,'' while buy (sell) complex orders with User instructions not to (or which default not to) initiate a COA or that are priced equal to or lower (higher) than the SBB (SBO) or equal to or lower (higher) than the price of complex orders resting at the top of the COB are ''do-not-COA orders.'' The Exchange believes that this gives market participants extra flexibility to control the handling and execution of their complex orders by the System by giving them the additional ability to determine whether they wish to have their complex order initiate a COA. The Exchange further believes that the proposed default values are consistent with the terms of the orders (*e.g.,* IOC is intended as an immediate execution or cancellation whereas COA is a process that includes a short delay in order to broadcast and provide participants time to respond). Current Rule 6.13(c)(1)(B) defines COA-eligible orders as orders the Exchange determines to be eligible for COA based on size, type, and origin type, so the proposed rule change is consistent with this flexibility. The Exchange determines which Capacities (*i.e.,* non-broker-dealer customers, broker-dealers that are not Market-Makers on an options exchange, or Market-Makers on an options exchange) are eligible for entry onto the COB.[38] This is consistent with EDGX Rule 21.20(c). Additionally, current Rule 6.13(c)(2)(A) indicates a COA will initiate if the COA-eligible order is marketable against the BBO, so the proposed marketability requirement in the definition of a COA-eligible is consistent with current COA rules as well as the proposed priority rule. Current Rule 6.13(c)(2)(B) provides Trading Permit Holders with ability to choose whether an order is COA-eligible or not, as the proposed rule does. The proposed definition of COA-eligible order is substantively the same as EDGX Rule 21.20, Interpretation and Policy .02.

• Complex Orders with MTP Modifiers: Users may apply the following MTP Modifiers to complex orders: MTP Cancel Newest, MTP Cancel Oldest, and MTP Cancel Both. If a complex order would execute against a complex order in the COB with an MTP Modifier and the same Unique Identifier, the System handles the complex orders with these MTP Modifiers as described in Rule 1.1. If a complex order with an MTP Modifier would Leg into the Simple Book and execute against any leg on the Simple Book with an MTP Modifier and the same Unique Identifier, the System cancels the complex order. This will allow a User to avoid trading complex orders against its own orders or orders of affiliates, providing Users with an additional way to maintain control over their complex order executions.

Current Rules 6.10 and 6.13(b) and (c) provide C2 with authority to determine which order types are available for COB and COA (and current paragraph (b) states complex orders may be IOC, Day, or GTC, as GTD functionality is not currently available on C2). Proposed paragraph (b) is consistent with this current Exchange authority and expands the Times-in-Force the Exchange may

[38] Currently, all Capacities may rest complex orders in the COB, which the Exchange plans to be the case following the technology migration.

permit for complex orders to be consistent with the Times-in-Force available for complex orders on EDGX. Proposed Rule 6.13(b) is substantively the same as EDGX Rule 21.20(b). This authority enables the Exchange to modify complex order types available on the Exchange as market conditions change and remain competitive.

Proposed Rule 6.13(c) describes the process of accepting orders prior to the opening of the COB for trading (and prior to re-opening after a halt), and the process by which the Exchange will open the COB or re-open the COB following a halt (the ''Opening Process''). The current COB opening process is described in current Rule 6.13, Interpretation and Policy .07, which the proposed rule change deletes. The proposed COB opening process is substantively the same as the EDGX COB opening process described in EDGX Rule 21.20(c)(A) through (D).

The COB Opening Process will occur at the beginning of each trading day and after a trading halt (similar to the current COB opening process, as stated in current Interpretation and Policy .07(b)). There will be a complex order entry period, during which the System will accept complex orders for inclusion in the COB Opening Process at the times and in the manner set forth in proposed Rule 6.11(a), except the Order Entry Period for complex orders ends when the complex strategy opens. Currently, C2 similarly accepts complex orders prior to the COB opening, at the same time it begins to accept simple orders. As discussed above, this time is changing from no earlier than 2:00 a.m. central to 7:30 a.m. eastern (which time is consistent with the current pre-open period on C2). The Exchange believes this provides Users with sufficient time to enter complex orders prior to the open. Complex orders entered during the Order Entry Period will not be eligible for execution until the COB Opening Process occurs. Beginning at 7:30 a.m. and updated every five seconds thereafter until the initiation of the COB Opening Process, the Exchange will disseminate indicative prices and order imbalance information based on complex orders queued in the System for the COB Opening Process. This is new functionality that will provide Users with information regarding the expected COB opening, which is the same as functionality available on EDGX (see EDGX Rule 21.20(c)(2)(A)).

The System initiates the COB Opening Process for a complex strategy after a number of seconds (which number the Exchange determines) after all legs of the strategy in the Simple Book are open for trading. This is consistent with the current COB Opening Process, as set forth in current Interpretation and Policy .07(a). All complex orders the System receives prior to opening a complex strategy pursuant to the COB Opening Process, including any delay applied by the Exchange, are eligible to be matched in the COB Opening Process and not during the Opening Process described in Rule 6.11. The proposed delay is consistent with current EDGX functionality and is additional detail in the C2 Rules. C2 similarly applies a delay period during the regular Opening Process, as described above.

If there are matching complex orders in a complex strategy, the System determines the COB opening price, which is the price at which the most complex orders can trade. If there are multiple prices that would result in the same number of complex orders executed, the System chooses the price that would result in the smallest remaining imbalance as the COB opening price. If there are multiple prices that would result in the same number of complex orders executed and the same ''smallest'' imbalance, the System chooses the price closest to the midpoint of the (i) SNBBO or (ii) if there is no SNBBO available, the highest and lowest potential opening prices as the COB opening price. If the midpoint price would result in an invalid increment, the System rounds the COB opening price up to the nearest permissible increment. If the COB opening price equals the SBBO, the System adjust the COB opening price to a price that is better than the corresponding bid or offer in the Simple Book by $0.01. This is consistent with EDGX Rule 21.20(c)(2)(C), except on EDGX, the opening price must improve the SBBO only if there are priority customers on the legs.

After the System determines a COB opening price, the Exchange executes matching complex orders in accordance with the priority in proposed Rule 6.12(a) applicable to the class at the COB opening price. The System enters any remaining complex orders (or unexecuted portions) into the COB, subject to a User's instructions. If there are no matching complex orders in a complex strategy, the System opens the complex strategy without a trade. If after an Exchange-established period of time that may not exceed 30 seconds, the System cannot match orders because (i) the System cannot determine a COB opening price (*i.e.,* all queued orders are market orders) or (ii) the COB opening price is outside the SNBBO, the System opens the complex strategy without a trade. In both case, the System enters any orders in the complex strategy in the COB (in time priority), except it Legs any complex orders it can into the Simple Book. The proposed rule change provides additional detail regarding how the COB will open if there are no matching trades. Additionally, the Exchange believes the proposed configurable time period is important because the opening price protections are relatively restrictive (*i.e.,* based on the SNBBO), and the configurable time period provides the Exchange with the ability to periodically review the process and modify it as necessary to ensure there is sufficient opportunity to have Opening Process executions without also waiting too long to transition to regular trading. This is similar to EDGX Rule 21.20(c)(2)(D).

Currently on C2, the System opens the COB in a similar manner, however it first attempts to match complex orders against orders in the Simple Book, then matches complex orders against each other. As proposed, and consistent with EDGX Rule 21.20(c)(2)(C), complex orders will not leg into the book upon the COB open (unless there are no matching complex orders and a complex strategy opens without a trade); however, the COB opening price must improve the SBBO by at least $0.01 as described above, thus providing protection to the leg markets (including customers). The proposed matching process for complex orders on the COB is similar to the process in current Interpretation and Policy .07(a)(ii). Additionally, C2 currently restricts valid opening trade prices to be within the SBBO rather than the SNBBO as the proposed opening process does. The SNBBO more accurately reflects the then-current market, rather than the SBBO, and thus the Exchange believes it is a better measure to use for purposes of determining the reasonability of the prices of orders.

Proposed Rule 6.13(d) describes the COA process for COA-eligible orders. Orders in all classes will be eligible to participate in COA. Upon receipt of a COA-eligible order, the System initiates the COA process by sending a COA auction message to all subscribers to the Exchange's data feeds that deliver COA auction messages. A COA auction message identifies the COA auction ID, instrument ID (*i.e.,* complex strategy), Capacity, quantity, and side of the market of the COA-eligible order. The Exchange may also determine to include the price in COA auction messages, which will be the limit order price or the SBBO (if initiated by a market complex order), or the drill-through price if the order is subject to the drill-through protection in Rule 6.14(b). This

is similar to the RFR message the Exchange currently sends to Trading Permit Holders as set forth in current subparagraph (c)(2)(A).

The System may initiate a COA in a complex strategy even though another COA in that complex strategy is ongoing. This concurrent COA functionality is not currently available on C2, but is available on EDGX (see EDGX Rule 21.20(d)(1)). The Exchange believes it will increase price improvement and execution opportunities for complex orders following the technology migration. The Exchange notes at the outset that based on how Exchange Systems operate (and computer processes generally), it is impossible for COAs to occur ''simultaneously'', meaning that they would commence and conclude at exactly the same time. Thus, although it is possible as proposed for one or more COAs to overlap, each COA will be started in a sequence and with a time that will determine its processing. Thus, even if there are two COAs that commence and conclude at nearly the same time, each COA will have a distinct conclusion at which time the COA will be allocated.

If there are multiple COAs ongoing for a specific complex strategy, each COA concludes sequentially based on the time each COA commenced, unless terminated early as described below. At the time each COA concludes, the System allocates the COA-eligible order pursuant to proposed Rule 6.13(d)(5) and takes into account all COA Responses for that COA, orders in the Simple Book, and unrelated complex orders on the COB at the time the COA concludes. If there are multiple COAs ongoing for a specific complex strategy that are each terminated early as described below, the System processes the COAs sequentially based on the order in which they commenced. If a COA Response is not fully executed at the end of the identified COA to which the COA Response was submitted, the System cancels or rejects it at the conclusion of the specified COA.

In turn, when the first COA concludes, orders on the Simple Book and unrelated complex orders that then exist will be considered for participation in the COA. If unrelated orders are fully executed in such COA, then there will be no unrelated orders for consideration when the subsequent COA is processed (unless new unrelated order interest has arrived). If instead there is remaining unrelated order interest after the first COA has been allocated, then such unrelated order interest will be considered for allocation when the subsequent COA is processed. As another example, each COA Response is required to specifically identify the COA for which it is targeted and if not fully executed will be cancelled at the conclusion of the COA. Thus, COA Responses will only be considered in the specified COA.

The proposed COA process is substantively the same as the COA process described in EDGX Rule 21.20(d), except there will be no customer priority on C2 for simple or complex orders.

Proposed subparagraph (d)(3) defines the Response Time Interval as the period of time during which Users may submit responses to the COA auction message (''COA Responses''). The Exchange determines the duration of the Response Time Interval, which may not exceed 500 milliseconds. This is similar to current subparagraph (c)(3)(B), except the proposed rule change reduces the maximum time period from three seconds to 500 milliseconds. The Exchange believes that 500 milliseconds is a reasonable amount of time within which participants can respond to a COA auction message, as it is the maximum timeframe in EDGX Rule 21.20(d)(3). The current timer on C2 is 20 milliseconds, and therefore the Exchange believes market believes a maximum response time of 500 milliseconds is sufficient to respond to auctions.

However, the Response Time Interval terminates prior to the end of that time duration:

(1) When the System receives a non-COA-eligible order on the same side as the COA-eligible order that initiated the COA but with a price better than the COA price, in which case the System terminates the COA and processes the COA-eligible order as described below and posts the new order to the COB; or

(2) when the System receives an order in a leg of the complex order that would improve the SBBO on the same side as the COA-eligible order that initiated the COA to a price equal to or better than the COA price, in which case the System terminates the COA and processes the COA-eligible order as described below, posts the new order to the COB, and updates the SBBO.

These circumstances that cause a Response Time Interval to terminate prior to the end of the above-noted time duration are substantively the same as EDGX Rule 21.20(d)(5)(C)(i) and (ii). EDGX Rule 21.20(d)(5)(C)(iii) does not apply to C2, as it relates to Priority Customer orders, which have no allocation priority on C2. Current C2 Rule 6.13(c)(8)(C) describes how the System currently handles incoming COA-eligible orders on the same side of the original COA order at a better price. The proposed rule change deletes that provision, as it is being replaced by the functionality above (which order terminates a COA in that circumstance rather than joins the COA, but still provides execution opportunities for the new incoming order by placing it on the COB). The proposed rule change deletes current C2 Rule 6.13(c)(8), which describes current circumstances that cause a COA to end early, as those will no long apply following the technology migration. The proposed rule change deletes current Rule 6.13(c)(8)(A) and (B) regarding incoming COA-eligible orders received during the Response Time Interval, as those orders may initiate a separate COA under the proposed rule change that permits concurrent COAs. The proposed rule change deletes current Rule 6.13(c)(D) and (E) relating to incoming do-not-COA orders and changes in the leg markets that would terminate an ongoing COA, as under the proposed rules, those new orders would not terminate a COA but would be eligible to execute against the COA-eligible order at the end of the COA) (see proposed subparagraph (d)(2), which states execution will occur against orders in the Simple Book and COB at the time the COA concludes). Ultimately, these incoming orders are eligible for execution against a COA-eligible order under current and proposed rules. The proposed rule change merely changes the potential execution time to the end of the full response interval time from an abbreviated response interval time.

Proposed subparagraph (d)(4) describes COA Responses that may be submitted during the Response Time Interval for a specific COA. The System accepts a COA Response(s) with any Capacity in $0.01 increments during the Response Time Interval. Current subparagraph (c)(3) permits the Exchange to determine whether Market-Makers assigned to a class and Trading Permit Holders acting as agent for orders resting on the top of the COB in the relevant series, or all Trading Permit Holders, may submit COA Responses. Currently, the Exchange permits all Trading Permit Holders to submit COA Responses, so the proposed rule change is consistent with current C2 practice and merely eliminates this flexibility.

A COA Response must specify the price, size, side of the market (*i.e.,* a response to a buy COA as a sell or a response to a sell COA as a buy) and COA auction ID for the COA to which the User is submitting the COA Response. While this is not included in current C2 rules, it is consistent with System entry requirements for COA

Responses. The System aggregates the size of COA Responses submitted at the same price for an EFID, and caps the size of the aggregated COA Responses at the size of the COA-eligible order. This provision is similar to Cboe Options Rule 6.53(d)(v), which caps order and response sizes for allocation purposes to prevent Trading Permit Holders from taking advantage of a pro-rata allocation by submitting responses larger than the COA-eligible order to obtain a larger allocation from that order.

During the Response Time Interval, COA Responses are not firm, and Users can modify or withdraw them at any time prior to the end of the Response Time Interval, although the System applies a new timestamp to any modified COA Response (unless the modification was to decrease its size), which will result in loss of priority. The Exchange does not display COA Responses. At the end of the Response Time Interval, COA Responses are firm (*i.e.,* guaranteed at their price and size). A COA Response may only execute against the COA-eligible order for the COA to which a User submitted the COA Response. The System cancels or rejects any unexecuted COA Responses (or unexecuted portions) at the conclusion of the COA. This is substantively the same as current subparagraph (c)(7) and EDGX Rule 21.20(d)(4).

Proposed subparagraph (d)(5) describes how COA-eligible orders are processed at the end of the Response Time Interval. At the end of the Response Time Interval, the System executes a COA-eligible order (in whole or in part) against contra side interest in price priority. If there is contra side interest at the same price, the System allocates the contra side interest as follows:

(1) Orders and quotes in the Simple Book for the individual leg components of the complex order through Legging (subject to proposed paragraph (g), as described below), which the System allocates in accordance with the priority in proposed Rule 6.12(a) applicable to the class.

(2) COA Responses and unrelated orders posted to the COB, which the System allocates in accordance with the priority in proposed Rule 6.12(a) applicable to the class.

This allocation is similar to the current allocation priority on C2 following a COA, as set forth in current C2 Rule 6.13(c)(5), except the proposed rule allocates COA-eligible orders to COA responses and resting complex orders in the same priority as it does simple orders, rather than providing public customer complex orders and COA response with priority. The Exchange believes it is appropriate for complex orders to allocate in the same manner as simple orders. Additionally, on EDGX, COA responses and unrelated orders on the COB allocate in time priority, and Leg into the Simple Book in pro-rata priority, as that is the only allocation algorithm available for simple orders on EDGX. EDGX prioritizes customer orders in the simple book. As discussed above, there will be no customer priority on C2—this applies to both the Simple Book and the COB. However, by trading with the legs first, this provides protection to customer orders in the legs as well, and ensure no complex orders will trade against the COB ahead of customer orders in the legs.

Proposed subparagraph (d)(5)(B) states the System enters any COA-eligible order (or unexecuted portion) that does not execute at the end of the COA into the COB (if eligible for entry), and applies a timestamp based on the time it enters the COB (see current C2 Rule 6.13(c)(6)). The System cancels or rejects any COA-eligible order (or unexecuted portion) that does not execute at the end of the COA if not eligible for entry into the COB or in accordance with the User's instructions. Once in the COB, the order may execute pursuant to proposed paragraph (e) following evaluation pursuant to proposed paragraph (i), both as described below, and remain on the COB until they execute or are cancelled or rejected. These provisions are substantively the same as EDGX Rule 21.20(d)(5)(A) and (B).

Proposed Rule 6.13(e) describes how the System will handle do-not-COA orders (*i.e.* orders that do not initiate a COA upon entry to the System) and orders resting in the COB. Upon receipt of a do-not-COA order, or if the System determines an order resting on the COB is eligible for execution following evaluation as described below, the System executes it (in whole or in part) against contra side interest in price priority. If there is contra side interest at the same price, the System allocates the contra side interest as follows:

(1) Orders and quotes in the Simple Book for the individual leg components of the complex order through Legging (as described below), which the System allocates in accordance with the priority in proposed Rule 6.12(a) applicable to the class.

(2) Complex orders resting on the COB, which the System allocates in accordance with the priority in proposed Rule 6.12(a) applicable to the class.

The System enters any do-not-COA order (or unexecuted portion) that cannot execute against the individual leg markets or complex orders into the COB (if eligible for entry), and applies a timestamp based on the time it enters the COB. The System cancels or rejects any do-not-COA order (or unexecuted portion) that would execute at a price outside of the SBBO, if not eligible for entry into the COB, or in accordance with the User's instructions. Complex orders resting on the COB may execute pursuant to proposed paragraph (e) following evaluation pursuant to proposed paragraph (i), both as described below, and remain on the COB until they execute or are cancelled or rejected.

The proposed rule change is similar to current C2 Rule 6.13(b)(1). Additionally, the proposed rule change is substantively the same as EDGX Rule 21.20(c)(3)(B) and (5)(D), except for the priority of execution. As discussed above, on C2, complex orders will trade against the leg markets ahead of the COB (including customer orders), but will not prioritize customer orders on the leg markets. As discussed above, this is consistent with C2's allocation, which provides no customer priority.

Proposed Rule 6.13(f)(1) states the minimum increment for bids and offers on a complex order is $0.01, and the components of a complex order may be executed in $0.01 increments, regardless of the minimum increments otherwise applicable to the individual components of the complex order. This is consistent with current and proposed Rule 6.4. Proposed Rule 6.13(f)(2) provides the System does not execute a complex order pursuant to Rule 6.13 at a net price (1) that would cause any component of the complex strategy to be executed at a price of zero, (2) worse than the SBBO, (3) that would cause any component of the complex strategy to be executed at a price worse than the individual component price on the Simple Book, (4) worse than the price that would be available if the complex order Legged into the Simple Book, or (5) ahead of orders on the Simple Book without improving the BBO on at least one component by at least $0.01. The System executes complex orders without consideration of any prices for the complex strategy that might be available on other exchanges trading the same complex strategy; provided, however, that such complex order price may be subject to the drill-through price protection described below. This is substantively the same as EDGX Rule 21.20(c). However, because complex orders will execute against the leg markets (including customer orders on

the legs) prior to executing against complex orders at the same price, complex orders will not execute ahead of a customer order on the legs. Additionally, this provision is substantively the same as current C2 Rules 6.12(g) and 6.13(c)(5).

Proposed paragraph (g) adopts restrictions on the ability of complex orders to Leg into the Simple Book. Specifically, a complex order may Leg into the Simple Book pursuant to proposed subparagraphs (d)(5)(A)(i) and (e)(i), subject to the restrictions in proposed paragraph (g), if it can execute in full or in a permissible ratio and if it has no more than a maximum number of legs (which the Exchange determines on a class-by-class basis and may be two, three or four), subject to the following restrictions:

(1) All two leg COA-eligible Customer complex orders may Leg into the Simple Book without restriction.

(2) Complex orders for any other Capacity with two option legs that are both buy or both sell and that are both calls or both puts may not Leg into the Simple Book. These orders may execute against other complex orders on the COB.

(3) All complex orders with three or four option legs that are all buy or all sell (regardless of whether the option legs are calls or puts) may not Leg into the Simple Book. These orders may execute against other complex orders on the COB.

The proposed rule change is substantively the same as EDGX Rule 21.20(c)(2)(F), except it does not include restrictions related to Customer orders, because Customer priority will not apply on C2. These restrictions serve the same purpose as the protection included in current C2 Rule 6.13(c)(2)(A), which is to ensure that Market-Makers providing liquidity do not trade above their established risk tolerance levels. Currently, liquidity providers (typically Market Makers, though such functionality is not currently limited to registered Market Makers) in the Simple Book are protected by way of the Risk Monitor Mechanism by limiting the number of contracts they execute as described above. The Risk Monitor Mechanism allows Market-Makers and other liquidity providers to provide liquidity across potentially hundreds of options series without executing the full cumulative size of all such quotes before being given adequate opportunity to adjust the price and/or size of their quotes.

All of a participant's quotes in each option class are considered firm until such time as the Risk Monitor Mechanism's threshold has been equaled or exceeded and the participant's quotes are removed by the Risk Monitor Mechanism in all series of that option class. Thus the Legging of complex orders presents higher risk to Market-Makers and other liquidity providers as compared to simple orders being entered in multiple series of an options class in the simple market, as it can result in such participants exceeding their established risk thresholds by a greater number of contracts. Although Market-Makers and other liquidity providers can limit their risk through the use of the Risk Monitor Mechanism, the participant's quotes are not removed until after a trade is executed. As a result, because of the way complex orders leg into the regular market as a single transaction, Market-Makers and other liquidity providers may end up trading more than the cumulative risk thresholds they have established, and are therefore exposed to greater risk. The Exchange believes that Market Makers and other liquidity providers may be compelled to change their quoting and trading behavior to account for this additional risk by widening their quotes and reducing the size associated with their quotes, which would diminish the Exchange's quality of markets and the quality of the markets in general.

Proposed Rule 6.13(h) contains additional provisions regarding the handling of complex orders:

- A complex market order or a limit order with a price that locks or crosses the then-current opposite side SBBO and does not execute because the SBBO is the best price but not available for execution (because it does not satisfy the complex order ratio or the complex order cannot Leg into the Simple Book) enters the COB with a book and display price that improves the then-current opposite side SBBO by $0.01. If the SBBO changes, the System continuously reprices the complex order's book and display price based on the new SBBO (up to the limit price, if it is a limit order), subject to the drill-through price protection described in Rule 6.14(b), until: (A) The complex order has been executed in its entirety; or (B) the complex order (or unexecuted portion) of the complex order is cancelled or rejected. This provision is substantively the same as EDGX Rule 21.20(c)(4) and (6), except it improves the SBBO by $0.01 in all cases. This is consistent with the proposed C2 rule to trade with the leg markets ahead of the COB. The purpose of using the calculated SBBO is to enable the System to determine a valid trading price range for complex strategies and to protect orders resting on the Simple Book by ensuring that they are executed when entitled. Additionally, this process ensures the System will not execute any component of a complex order at a price that would trade through an order on the Simple Book. The Exchange believes that this is reasonable because it prevents the components of a complex order from trading at a price that is inferior to a price at which the individual components may be traded on the Exchange or ahead of the leg markets.
- If there is a zero NBO for any leg, the System replaces the zero with a price $0.01 above NBB to calculate the SNBBO, and complex orders with any buy legs do not Leg into the Simple Book. If there is a zero NBB, the System replaces the zero with a price of $0.01, and complex orders with any sell legs do not Leg into the Simple Book. If there is a zero NBB and zero NBO, the System replaces the zero NBB with a price of $0.01 and replaces the zero NBO with a price of $0.02, and complex orders do not Leg into the Simple Book. The SBBO and SNBBO may not be calculated if the NBB or NBO is zero (as noted above, if the best bid or offer on the Exchange is not available, the System uses the NBB or NBO when calculating the SBBO). As discussed above, permissible execution prices are based on the SBBO. If the SBBO is not available, the System cannot determine permissible posting or execution pricing for a complex order (which are based on the SBBO), which could reduce execution opportunities for complex orders. If the System were to use the zero bid or offer when calculating the SBBO, it may also result in executions at erroneous prices (since there is no market indication for the price at which the leg should execute). For example, if a complex order has a buy leg in a series with no offer, there is no order in the leg markets against which this leg component could execute. This is consistent with functionality on EDGX, and the proposed rule change is merely including this detail in the C2 rules. This is also consistent with the proposed rule change (and EDGX rule) that states complex order executions are not permitted if the price of a leg would be zero. Additionally, this is similar to the proposed rule change described above to improve the posting price of a complex order by $0.01 if it would otherwise lock the SBBO. The proposed rule change is a reasonable process to ensure complex orders receive execution opportunities, even if there is no interest in the leg markets.[39]

[39] Cboe Options Rule 6.13(b)(vi) states if a market order is received when the national best bid in a series is zero, if the Exchange best offer is less than

Proposed Rule 6.13(i) states the System evaluates an incoming complex order upon receipt after the open of trading to determine whether it is a COA-eligible order or a do-not-COA order and thus whether it should be processed pursuant to proposed paragraph (d) or (e), respectively. The System also re-evaluates a complex order resting on the COB (including an order (or unexecuted portion) that did not execute pursuant to proposed paragraph (d) or (e) upon initial receipt) (1) at time the COB opens, (2) following a halt, and (3) during the trading day when the leg market price or quantity changes to determine whether the complex order can execute (pursuant to proposed Rule 6.13(e) described above), should be repriced (pursuant to proposed paragraph (h)), should remain resting on the COB, or should be cancelled. This is consistent with EDGX Rule 21.20(c)(2)(G) and (c)(5). This evaluation process ensures that the System is monitoring and assessing the COB for incoming complex orders, and changes in market conditions or events that cause complex orders to reprice or execute, and conditions or events that result in the cancellation of complex orders on the COB. This ensures the integrity of the Exchange's System in handling complex orders and results in a fair and orderly market for complex orders on the Exchange.

Proposed Rule 6.13(j) states the System cancels or rejects a complex market order it receives when the underlying security is subject to a limit up-limit down state, as defined in Rule 6.39. If during a COA of a COA-eligible market order, the underlying security enters a limit up-limit down state, the System terminates the COA without trading and cancels or rejects all COA Responses. This is consistent with handling of simple market orders during a limit up-limit down state, and is substantively the same as EDGX Rule 21.20(d)(8) and current Rule 6.13(c)(9).

Proposed Rule 6.13(k) describes the impact of trading halts on the trading of complex orders. If a trading halt exists for the underlying security or a component of a complex strategy, trading in the complex strategy will be suspended. The System queues a Trading Permit Holder's open orders during a Regulatory Halt, unless the Trading Permit Holder entered instructions to cancel its open complex orders upon a Regulatory Halt, for participation in the re-opening of the COB as described below. A Trading Permit Holder's complex orders are cancelled unless the Trading Permit Holder instructed the Exchange not to cancel its orders. The COB will remain available for Users to enter and manage complex orders that are not cancelled. Incoming complex orders that could otherwise execute or initiate a COA in the absence of a halt will be placed on the COB. Incoming complex orders with a time in force of IOC will be cancelled or rejected.

If, during a COA, any component(s) and/or the underlying security of a COA-eligible order is halted, the COA ends early without trading and all COA Responses are cancelled or rejected. Remaining complex orders will be placed on the COB if eligible or will be cancelled. When trading in the halted component(s) and/or underlying security of the complex order resumes, the System will re-open the COB pursuant to proposed paragraph (c) (as described above). The System queues any complex orders designated for a re-opening following a halt until the halt has ended, at which time they are eligible for execution in the Opening Process. This proposed rule change regarding the handling of complex orders during a trading halt is substantively the same as EDGX Rule 21.20, Interpretation and Policy .05.

The Exchange believes the proposed provisions described above regarding complex order handling and executions provide a framework that will enable the efficient trading of complex orders in a manner that is similar to current C2 functionality and substantively the same as EDGX functionality. As described above, complex order executions are designed to work in concert with a priority of allocation that continues to respect the priority of allocations on the Simple Book while protecting orders in the Simple Book.

Proposed Interpretation and Policy .01 states Market-Makers are not required to quote on the COB. Complex strategies are not subject to any quoting requirements applicable to Market-Makers in the simple market. The Exchange does not take into account Market-Makers' volume executed in complex strategies when deterring whether Market-Makers meet their quoting obligations in the simple market. This codifies current C2 practice and is identical to EDGX Rule 21.20, Interpretation and Policy .01.[40]

The proposed rule change deletes current Rule 6.13, Interpretation and Policy .02, which describes how orders resting on the COB may initiate a COA under certain conditions. This ''re-COA'' functionality will not be available on C2 following the technology migration. However, as described above, the System continuously evaluates orders resting on the COB for execution opportunities against incoming complex orders or orders in the leg markets. Pursuant to EDGX Rule 21.20(c)(5)(B), continual evaluation of orders on the COB does not determine whether orders may be subject to another COA. Therefore, the proposed rule change is consistent with EDGX rules, which do not permit ''re-COA.''

Proposed Interpretation and Policy .02 states a Trading Permit Holder's dissemination of information related to COA-eligible orders to third parties or a pattern or practice of submitting orders that cause a COA to conclude early will be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 4.1. This combines EDGX Rule 21.20, Interpretation and Policy .02 and current C2 Rule 6.13, Interpretation and Policy .03 into a single provision regarding behavior related to COAs that may be deemed inconsistent with just and equitable principles of trade.

Stock-option orders will not be available on C2 following the technology migration, so the proposed rule change deletes all provisions related to, and references to, stock-option orders from Rule 6.13 (including Interpretation and Policy .06) and elsewhere in the Rules. Stock-option order functionality is not currently available on C2, so this proposed rule change will have no impact on C2 market participants.

As discussed above, proposed Rule 6.13 regarding complex orders is substantially the same as EDGX Rule 21.20 or current Rule 6.13, except for provisions related to priority, as C2 will not have customer priority. Proposed Rule 6.13 has nonsubstantive differences compared to EDGX Rule 21.20, which differences are intended to simplify the description of complex orders, re-organize the provisions, and eliminate duplicative language.

Current C2 Rule 6.14 describes SAL, an electronic auction mechanism that provides price improvement for simple orders. Pursuant to this rule, the Exchange may determine whether to make SAL available on C2. The proposed rule change deletes this rule

or equal to $0.50, the Cboe Options system enters the market order into the book as a limit order with a price equal to the minimum trading increment for the series. Similar to the proposed rule change, this is an example of an exchange modifying an order price to provide execution opportunities for the order when there is a lack of contra-side interest when the order is received by the exchange.

[40] The proposed rule change deletes current C2 Rule 6.13, Interpretation and Policy .01 regarding determinations made by the Exchange, which is being replaced by proposed Rule 1.2.

(and makes conforming changes throughout the rules, including deleting references to SAL and Rule 6.14), as this functionality will not be available on C2 following the technology migration. Currently, the Exchange has not made SAL available for any classes on C2.

Proposed C2 Rule 6.14 consolidates all order and quote price protection mechanisms and risk controls into a single rule, and states the System's acceptance and execution of orders and quotes pursuant to the Rules, including proposed Rules 6.11 through 6.13, are subject to the price protection mechanisms and risk controls in proposed Rule 6.14. Proposed Rule 6.14 categorizes these mechanisms and controls as ones applicable to simple orders (proposed paragraph (a)), complex orders (proposed paragraph (b)), and all (*i.e.* simple and complex) orders (proposed paragraph (c)).

The following table identifies the current price protection mechanism and risk control, the current C2 Rule, the proposed C2 Rule, the corresponding EDGX rule (if any), and any proposed changes:

Price protection/ risk control	Current C2 rule	Proposed C2 rule	EDGX rule	Proposed changes
Handling of market orders received in no-bid series.	6.12(h)	6.14(a)(1)	N/A	Pursuant to the proposed rule change, the System cancels or rejects a market order if there is no-bid and the Exchange best offer is less than or equal to $0.50. Under current functionality, the System would treat the sell order as a limit order with a price equal to the minimum increment in this situation. The proposed rule change also expands the same protection to market orders in no-offer series. The Exchange believes the proposed rule change will provide protection for these orders to prevent execution at potentially erroneous prices when a market order is entered in a series with no bid or offer.
Market order NBBO width protection.	6.17(a)(1)	6.14(a)(2)	21.17(a)	The proposed functionality is generally the same as current functionality, except the acceptable amount away from NBBO a market order may execute will be determined by a percentage away from the NBBO midpoint (subject to a minimum and maximum dollar amount) rather than specified dollar ranges based on premium, providing the Exchange with flexibility it believes appropriate given previous experience with risk controls.
Buy order put check.	6.17(d)	6.14(a)(3)	21.17(c)	The proposed rule change will apply to market order executions during the Opening Process, and deletes the call underlying value check in current Rule 6.17(d)(1)(B), as this functionality will not be available on C2's new system following the technology migration. The proposed rule change also deletes references to auctions because C2 will have no simple order auctions following the migration.
Drill-through protection (simple).	6.17(a)(2)	6.14(a)(4)	21.17(d)	The proposed functionality is generally the same as current functionality, except the drill-through amount is a buffer amount determined by class and premium rather than a number ticks. The proposed rule change deletes the distinction between orders exposed via SAL or HAL, as those auction mechanisms will not be available on C2's new system following the technology migration. The proposed functionality applies to Day orders, as well as GTD and GTC orders that reenter the Book from the prior trading day, but not IOC or FOK, as resting in the Book for a period of time is inconsistent with their purpose (which is to cancel if not executed immediately).
Definitions of vertical spread, butterfly spread, and box spread.	6.13.04	6.14(b)(1)	21.20.04(a)	No substantive changes.
Credit-to-debit parameters.	6.13.04(b)	6.14(b)(2)	21.20.04(b)	No substantive changes.
Debit/credit price reasonability checks.	6.13.04(c)	6.17(b)(3)	21.20.04(c)	The proposed functionality is generally the same as current functionality, except the acceptable price is subject to a pre-set buffer amount, which flexibility is consistent with EDGX functionality. The proposed rule change also makes an additional change to conform to a Cboe Options rule, as described below.
Buy strategy parameters.	6.13.04(d)	6.17(b)(4)	21.20.04(d)	The proposed functionality is generally the same as current functionality, except the net credit price is subject to a buffer amount (consistent with EDGX functionality). The proposed rule change deletes the mechanism's applicability to sell strategies, as that functionality will not be available on C2 following the technology migration.
Maximum value acceptable price range.	6.13.04(h)	6.17(b)(5)	21.20.04(e)	The proposed functionality is generally the same as current functionality, except the price range is calculated using a buffer amount (consistent with EDGX functionality) rather than a percentage amount.

Price protection/ risk control	Current C2 rule	Proposed C2 rule	EDGX rule	Proposed changes
Drill-through protection (complex).	N/A	6.17(b)(6)	21.20.04(f)	The proposed functionality is generally the same as current functionality that applies to simple orders, and expands it to complex orders. The proposed rule change replaces market width parameter protection and acceptable percentage range parameter in current Rule 6.13.04(a) and (e), respectively, which currently protect C2 complex orders from executing at potentially erroneous prices too far away from the order's price or the market's best price. The proposed rule is substantially similar to EDGX Rule 21.20(c)(2)(E), except as follows: (1) The proposed rule change adds the concept that a COA-eligible order would initiate a COA at the drill-through price (this is consistent with current EDGX functionality and is additional detail in the C2 Rules) (the prices for complex strategy executions may be subject to the drill-through protection, which is intended to capture the concept that the price of a COA may be impacted by the drill-through protection; the proposed rule change makes this explicit in the C2 rules); and (2) describes how a change in the SBBO prior to the end of the time period but the complex order cannot Leg, and the new SBO (SBB) crosses the drill-through price, the System changes the displayed price of the complex order to the new SBO (SBB) minus (plus) $0.01, and the order will not be cancelled at the end of the time period (consistent with EDGX functionality, and the proposed rule change adds this detail to the C2 Rules). The proposed rule change merely permits an order to remain on the COB since the market reflects interest to trade (but not currently executable due to Legging Restrictions) that was not there was not at the beginning of the time period, providing additional execution opportunities prior to cancellation.
Limit Order Fat Finger Check.	6.13.04(g) and 6.17(b).	6.14(c)(1)	21.17(b) and 21.20, Interpretation and Policy .06.	The proposed functionality is generally the same as current functionality, except the amount away from the NBBO a limit order price may be is a buffer amount rather than a number of ticks with no minimum, and Exchange may determine whether the check applies to simple orders prior to the conclusion of the Opening Process (current rules codify pre-open application), providing the Exchange with flexibility it believes appropriate given previous experience with risk controls. The proposed rule change does not apply to GTC or GTD orders that re-enter the Book from the prior trading day, as this check only applies to orders when the System receives them. The proposed rule change provides Users with ability to set a different buffer amount to accommodate its own risk modeling; does not apply to adjusted series prior to the Opening Process, as prices may reflect the corporate action for the underlying but the previous day's NBBO would not reflect that action. If the check applies prior to the Opening Process, the System compares the order's price to the midpoint of the NBBO rather than the previous day's closing price, which the Exchange believes is another reasonable price comparison; will no longer exclude ISOs, which is consistent with EDGX functionality.
Maximum contract size.	6.17(h)	6.14(c)(2)	N/A	The proposed functionality is generally the same as current functionality, except the Exchange will set a default amount rather than permit User to set amount. The proposed rule change applies per port rather than acronym or login. The functionality to cancel a resting order or quote if replacement order or quote is entered will not be available on C2 following the technology migration (however, a User can enable cancel on reject functionality described below to receive same result).
Maximum notional value.	N/A	6.14(c)(3)	Technical specifications.	Voluntary functionality similar to maximum contract size, except the System cancels or rejects an incoming order or quote with a notional value that exceeds the maximum notional value a User establishes for each of its ports. The proposed rule change provides an additional, voluntary control for Users to manage their order and execution risk on C2.
Daily risk limits	N/A	6.14(c)(4)	Technical specifications.	Voluntary functionality pursuant to which a User may establish limits for cumulative notional booked bid ("CBB") or offer ("CBO") value, and cumulative notional executed bid ("CEB") or offer ("CEO") value for each of its ports on a net or gross basis, or both, and may establish limits for market or limit orders (counting both simple and complex), or both. If a User exceeds a cutoff value (by aggregating amounts across the User's ports), the System cancels or rejects incoming limit or market orders, or both, as applicable.[41]
Risk monitor mechanism.	6.17(g) and 8.12.	6.14(c)(5)	6.36	Similar functionality to current C2 quote risk monitor and order entry, execution, and price parameter rate checks, which will not be available on C2 following the technology migration (discussed below) [sic].

Price protection/ risk control	Current C2 rule	Proposed C2 rule	EDGX rule	Proposed changes
Cancel on reject	N/A	6.14(c)(6)	Technical specifications.	Additional, voluntary control for Users to manage their order and execution risk on C2, pursuant to which the System cancels a resting order or quote if the System rejects a cancel or modification instruction (because, for example, it had an invalid instruction) for that resting order or quote. The proposed rule change is consistent with the purpose of a cancel or modification, which is to cancel the resting order or quote, and carries out this purpose despite an erroneous instruction on the cancel/modification message.
Kill switch	6.17(i)	6.14(c)(7)	22.11	The proposed functionality is generally the same as current functionality, except Users may apply it to different categories of orders by EFID rather than acronym or login (consistent with new System functionality), and block of incoming orders or quotes is a separate request by Users.
Cancel on disconnect.	6.48	6.14(c)(8)	Technical specifications.	The proposed functionality is generally the same as current technical disconnect functionality, except it is the same for both APIs on the new C2 system. The proposed rule change will continue to protect Users against erroneous executions if it appears they are experiencing a system disruption. The proposed functionality will no longer provide TPHs with ability to determine length of interval, but does provide additional flexibility with respect to which order types may be cancelled—current functionality permits a choice of market-maker quotes and day orders, while the proposed functionality permits a choice of day and GTC/GTD orders, or just day orders.
Block new orders	N/A	N/A	22.11	Similar to automatic functionality that occurs on C2 currently when a Trading Permit Holder uses kill switch functionality. The proposed rule change merely provides a separate way to achieve this result on the new System, providing Users with flexibility regarding how to manage their resting orders and quotes.
Duplicate order protection.	N/A	N/A	Technical specifications.	Additional, voluntary control for Users to manage their order and execution risk on C2. The proposed rule change protects Users against execution of multiple orders that may have been erroneously entered.

The proposed rule change deletes the mechanisms related to execution of quotes that lock or cross the NBBO and quotes inverting the NBBO. Since there will be no separate order and quote functionality, orders submitted by Market-Makers will be subject to the protections described above.

Under the current EDGX debit/credit price reasonability check (see EDGX Rule 21.20.04(c)), the System only pairs calls (puts) if they have the same expiration date but different exercise prices or the same exercise price but different expiration dates. Under the current C2 debit/credit reasonability check, with respect to pairs with different expiration the System pairs of calls (puts) with different expiration dates if the exercise price for the call (put) with the farther expiration date is lower (higher) than the exercise price for the nearer expiration date in addition to those with different expiration dates and the same exercise price. The proposed rule change amends this check to pair orders in the same manner as EDGX, which is to pair calls (puts) if they have the same expiration date but different exercise prices or the same exercise price but different expiration dates.

Additionally, the proposed rule change deletes the exception for complex orders with European-style exercise. The Exchange no longer believes this exception is necessary and will expand this check to index options with all exercise styles.

The proposed Risk Monitor Mechanism is substantively the same as the functionality currently available on EDGX. Because there will no longer be separate order and quote functionality on C2 following the technology migration, there will no longer be separate mechanisms to monitor entry and execution rates, as there are on C2 today. Each User may establish limits for the following parameters in the Exchange's counting program. The System counts each of the following within a class (''class limit'') and across all classes for an EFID (''firm limit'') over a User-established time period (''interval'') on a rolling basis up to five minutes (except as set forth in (iv) below) and on an absolute basis for a trading day (''absolute limits''):

(i) Number of contracts executed (''volume'');

(ii) notional value of executions (''notional'');

(iii) number of executions (''count''); and

(iv) number of contracts executed as a percentage of number of contracts outstanding within an Exchange-designated time period or during the trading day, as applicable (''percentage''), which the System determines by calculating the percentage of a User's outstanding contracts that executed on each side of the market during the time period or trading day, as applicable, and then summing the series percentages on each side in the class.

When the System determines the volume, notional, count, or percentage:

(i) Exceeds a User's class limit within the interval or the absolute limit for the class, the Risk Monitor Mechanism cancels or rejects such User's orders or quotes in all series of the class and cancels or rejects any additional orders or quotes from the User in the class until the counting program resets (as described below).

(ii) exceeds a User's firm limit within the interval or the absolute limit for the firm, the Risk Monitor Mechanism cancels or rejects such User's orders or quotes in all classes and cancels or rejects any additional orders or quotes from the User in all classes until the counting program resets (as described below).

[41] The System calculates a notional cutoff on a gross basis by summing CBB, CBO, CEB, and CEO. The System calculates a notional cutoff on a net basis by summing CEO and CBO, then subtracting the sum of CEB and CBB, and then taking the absolute value of the resulting amount.

The Risk Monitor Mechanism will also attempt to cancel or reject any orders routed away to other exchanges.

The System processes messages in the order in which they are received. Therefore, it will execute any marketable orders or quotes that are executable against a User's order or quote and received by the System prior to the time the Risk Monitor Mechanism is triggered at the price up to the size of the User's order or quote, even if such execution results in executions in excess of the User's parameters.

The System will not accept new orders or quotes from a User after a class limit is reached until the User submits an electronic instruction to the System to reset the counting program for the class. The System will not accept new orders or quotes from a User after a firm limit is reached until the User manually notifies the Trade Desk to reset the counting program for the firm, unless the User instructs the Exchange to permit it to reset the counting program by submitting an electronic message to the System. The Exchange may restrict the number of User class and firm resets per second.

The System counts executed COA responses as part of the Risk Monitor Mechanism. The System counts individual trades executed as part of a complex order when determining whether the volume, notional, or count limit has been reached. The System counts the percentage executed of a complex order when determining whether the percentage limit has been reached.

The Risk Monitor Mechanism providers Users with similar ability to manage their order and execution risk to the quote risk monitor and rate checks currently available on C2. It merely uses different parameters and modifies the functionality to conform C2's new System.

With respect to various price protections and risk controls in current Rules 6.13, Interpretation and Policy .04, and 6.17, the Exchange has the authority to provide intraday relief by widening or inactivating one or more of the parameter settings for the mechanisms in those rules. This authority is included in proposed Interpretation and Policy .01, to provide this flexibility for all price protections and risk controls for which the Exchange sets parameters, providing the Exchange with flexibility it believes appropriate given previous experience with risk controls. The Exchange will continue to make and keep records to document all determinations to grant intraday relief, and periodically review these determinations for consistency with the interest of a fair and orderly market.

The proposed rule change moves the provision regarding the Exchange's ability to share User-designated risk settings in the System with a Clearing Trading Permit Holder that clears Exchange transactions on behalf of the User from the introduction of current Rule 6.17 to proposed Rule 6.14, Interpretation and Policy .02.

Proposed Rule 6.15 replaces current Rule 6.36 regarding routing of orders to other exchanges. C2 will continue to support orders that are designated to be routed to the NBBO as well as orders that will execute only within C2 (as discussed above). Orders designated to execute at the NBBO will be routed to other options markets for execution when the Exchange is not at the NBBO, consistent with the Options Order Protection and Locked/Crossed Market Plan. Subject to the exceptions contained in Rule 6.81, the System will ensure that an order will not be executed at a price that trades through another options exchange. An order that is designated by a Trading Permit Holder as routable will be routed in compliance with applicable Trade-Through restrictions. Any order entered with a price that would lock or cross a Protected Quotation that is not eligible for either routing, or the Price Adjust process described above, will be cancelled.

Proposed Rule 6.15 states for System securities, the order routing process is available to Users from 9:30 a.m. until market close. Users can designate an order as either available or not available for routing. Orders designated as not available for routing (either Book Only or Post Only) are processed pursuant to Rule 6.12. For an order designated as available for routing, the System first checks for the Book for available contracts for execution against the order pursuant to Rule 6.12. Unless otherwise instructed by the User, the System then designates the order (or unexecuted portion) as IOC and routes it to one or more options exchanges for potential execution, per the User's instructions. After the System receives responses to the order, to the extent it was not executed in full through the routing process, the System processes the order (or unexecuted portion) as follows, depending on parameters set by the User when the incoming order was originally entered:

- Cancels the order (or unexecuted portion) back to the User;
- posts the unfilled balance of the order to the Book, subject to the Price Adjust process described in proposed Rule 6.12(b), if applicable. [sic]
- repeats the process described above by executing against the Book and/or routing to the other options exchanges until the original, incoming order is executed in its entirety;
- repeats the process described above by executing against the Book and/or routing to the other options exchanges until the original, incoming order is executed in its entirety, or, if not executed in its entirety and a limit order, posts the unfilled balance of the order on the Book if the order's limit price is reached; or
- to the extent the System is unable to access a Protected Quotation and there are no other accessible Protected Quotations at the NBBO, cancels or rejects the order back to the User, provided, however, that this provision does not apply to Protected Quotations published by an options exchange against which the Exchange has declared self-help.

Currently, C2 automatically routes intermarket sweep orders, consistent with the definition in Rule 6.80(8). This routing process is functionally equivalent to the current C2 routing process, and referred to as SWPA and is specifically described in proposed Rule 6.15(a)(2)(B). Specifically, SWPA is a routing option (which will be the default routing option following migration, and thus, if no other routing option is specified by a User, a User's order subject to routing will be handled in the same way it is today). Following the technology migration, C2 will offer additional routing options identical to the routing options offered by EDGX.[42] Routing options may be combined with all available Order Instructions and Times-in-Force, with the exception of those whose terms are inconsistent with the terms of a particular routing option. The System considers the quotations only of accessible markets. The term ''System routing table'' refers to the proprietary process for determining the specific options exchanges to which the System routes orders and the order in which it routes them. The Exchanges reserves the right to maintain a different System routing table for different routing options and to modify the System routing table at any time without notice. These additional routing

[42] Users may mark orders as eligible for routing (with one of the four proposed routing instructions) or not eligible for routing (with either a Book Only or Post Only instruction). Separately, both routable and non-routable orders may be marked with re-pricing instructions (either Price Adjust (single or multiple) and Cancel Back), which instruction the System will apply when it receives the order from the User or receives any unexecuted portion of an order upon returning from routing.

options are ROUT, destination specific, and directed ISO:

• ROUT is a routing option under which the System checks the Book for available contracts to execute against an order and then sends it to destinations on the System routing table. A User may select either Route To Improve (''RTI'') or Route To Fill (''RTF'') for the ROUT routing option. RTI may route to multiple destinations at a single price level simultaneously while RTF may route to multiple destinations and at multiple price levels simultaneously.

• Destination specific is a routing option under which the System checks the Book for available contracts to execute against an order and then sends it to a specific away options exchange.

• Directed ISO is a routing option under which the System does not check the Book for available contracts and sends the order to another options exchange specified by the User. It is the enter Trading Permit Holder's responsibility, not the Exchanges responsibility, to comply with the requirements relating to Intermarket Sweep Orders.

The Exchange also proposes to offer two options for Re-Route instructions, Aggressive Re-Route and Super Aggressive Re-Route, either of which can be assigned to routable orders:

• Pursuant to the Aggressive Re-Route instruction, if the remaining portion of a routable order has been posted to the Book pursuant proposed paragraph (a)(1) above, if the order's price is subsequently crossed by the quote of another accessible options exchange, the System routes the order to the crossing options exchange if the User has selected the Aggressive Re-Route instruction.

• Pursuant to the Super Aggressive Re-Route instruction, to the extent the unfilled balance of a routable order has been posted to the Book pursuant to subparagraph (a)(1) above, if the order's price is subsequently locked or crossed by the quote of another accessible options exchange, the System routes the order to the locking or crossing options exchange if the User has selected the Super Aggressive Re-Route instruction.

Proposed Rule 6.15(b) states the System does not rank or maintain in the Book pursuant to Rule 6.12 orders it has routed to other options exchanges, and therefore those orders are not available to execute against incoming orders. Once routed by the System, an order becomes subject to the rules and procedures of the destination options exchange including, but not limited to, order cancellation. If a routed order (or unexecuted portion) is subsequently returned to the Exchange, the order (or unexecuted portion), the order receives a new time stamp reflected the time the System receives the returned order. Proposed Rule 6.15(c) states Users whose orders are routed to other options exchanges must honor trades of those orders executed on other options exchanges to the same extent they would be required to honor trades of those orders if they had executed on the Exchange. These provisions are consistent with current C2 functionality, and the proposed rule change adds this detail to the C2 Rules. They are also substantively the same as EDGX Rule 21.9(b) and (c).

C2 will route orders in options via Cboe Trading, which will serve as the Outbound Router of the Exchange, as discussed above. The Outbound Router will route orders in options listed and open for trading on C2 to other options exchanges pursuant to C2 Rules solely on behalf of C2. The Outbound Router is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Exchange Act. Use of Cboe Trading or Routing Services as described below to route orders to other market centers is optional. Parties that do not desire to use Cboe Trading or other Routing Services provided by the Exchange must designate orders as not available for routing.

In the event the Exchange is not able to provide Routing Services through its affiliated broker-dealer, the Exchange will route orders to other options exchanges in conjunction with one or more routing brokers that are not affiliated with the Exchange. C2 does not currently have an affiliated broker-dealer that provides routing services, and thus it currently routes orders to other options exchanges in conjunction with one or more routing brokers not affiliated with the Exchange, as provided in current Rule 6.36(a). In connection with Routing Services, the same conditions will apply to routing brokers that currently apply to C2 routing brokers pursuant to current Rule 6.36(a) (which are proposed to be moved to Rule 6.15(e)) and are the same as EDGX Rule 21.9(e).

Proposed Rule 6.15(f) states in addition to the Rules regarding routing to away options exchanges, Cboe Trading has, pursuant to Rule 15c3–5 under the Exchange Act, implemented certain tests designed to mitigate the financial and regulatory risks associated with providing Trading Permit Holders with access to away options exchanges. Pursuant to the policies and procedures developed by Cboe Trading to comply with Rule 15c3–5, if an order or series of orders are deemed to be erroneous or duplicative, would cause the entering Trading Permit Holder's credit exposure to exceed a preset credit threshold, or are noncompliant with applicable pre-trade regulatory requirements, Cboe Trading will reject the orders prior to routing and/or seek to cancel any orders that have been routed. This provision is the same as EDGX Rule 21.9(f), and currently applies to Cboe Trading.

The proposed rule, including the various routing options, is substantially the same as EDGX Rule 21.9. The various routing options will provide Users with additional flexibility to instruct the Exchange how to handle the routing of their orders. The Re-Route instructions will provide unexecuted orders resting on the Book with additional execution opportunities. The proposed routing process and options are identical to those available on EDGX.

Current C2 Rule 6.18 describes HAL, a feature that automates handling of orders not at the NBBO by auctioning them at the NBBO for potential price improvement on the Exchange prior to routing. Pursuant to this rule, the Exchange may determine whether to make HAL available on C2. The proposed rule change deletes this rule (and makes conforming changes throughout the rules, including deleting references to HAL and Rule 6.18), as this functionality will not be available on C2 following the technology migration.

The proposed rule change deletes current C2 Rule 6.19 regarding types of order formats, as these formats are available on the current C2 system but will not be applicable on C2's new system following the technology migration. Information regarding order formats are available in technical specifications on the Exchange's website.[43]

Proposed C2 Rule 6.28 states the System sends to a User aggregated and individual transaction reports for the User's transactions, which reports include transaction details; the contra party's EFID, clearing Trading Permit Holder account number, and Capacity; and the name of any away exchange if an order was routed for execution. The Exchange reveals a User's identity (1) when a registered clearing agency ceases to act for a participant, or the User's Clearing Trading Permit Holder, and the registered clearing agency determines not to guarantee the settlement of the User's trades, or (2) for regulatory purposes or to comply with an order of

[43] *See http://markets.cboe.com/us/options/support/technical/.*

an arbitrator or court. C2 currently sends out transaction reports containing similar information, and the Exchange believes including this information in the Rules will provide more transparency to market participants about these reports. The proposed rule change is substantively the same as EDGX Rule 21.10 and is consistent with current Exchange and options industry practices, including the fact that clearing information available through OCC provides contra-party information, as well as the ability of a User to disclose its identify on orders.

Current C2 Rule 6.49 describes the C2 Trade Match System (''CTM'') functionality available on C2's current System, which permits Trading Permit Holders to update transaction reports. The functionality available on C2's System following the technology migration is called the Clearing Editor. The Clearing Editor, like CTM, allows Trading Permit Holders to update executed trades on their trading date and revise them for clearing. The Clearing Editor may be used to correct certain bona fide errors. Trading Permit Holders may change the following fields through the Clearing Editor: executing firm and contra firm; executing broker and contra broker; CMTA; account and subaccount (not just market-maker account and subaccount, as is the case currently on CTM): Customer ID; position effect (open/close); or Capacity (because there will be no customer priority on C2, there is no need to restrict Capacity changes as set forth in current Rule 6.49). The proposed rule change deletes Rule 6.49(b), which are fields Trading Permit Holders may change only if they provide notice to the Exchange, as Clearing Editor does not permit Trading Permit Holders to change these fields. If a Trading Permit Holder must change the series, quantity, buy or sell, or premium price, it must contact the Exchange pursuant to proposed Rule 6.29 regarding obvious errors. Current Rule 6.49(c) and Interpretation and Policy .01 are moved to Rule 6.31(c) and Interpretation and Policy .01 with no substantive changes.

C2 Rule 6.32 describes when the Exchange may halt trading in a class and is substantially similar to EDGX Rules 20.3 and 20.4. Current Rule 6.32(a) lists various factors, among others, the Exchange may consider when determining whether to halt trading in a class, but adds the following two to be consistent with EDGX Rule 20.3:

- Occurrence of an act of God or other event outside the Exchange's control; and
- occurrence of a System technical failure or failures including, but not limited to, the failure of a part of the central processing system, a number of Trading Permit Holder applications, or the electrical power supply to the System itself or any related system (the Exchange believes this broader factor regarding system functionality covers the current factor in paragraph (a)(4) regarding the status of a rotation, which is a system process).

As the current rule permits the Exchange to consider factors other than those currently listed, including the two factors proposed to be added (which the Exchange currently does consider when determining whether to halt a class), the proposed rule change is consistent current Rule 6.32(a). The proposed rule change moves the provision in Interpretation and Policy .02 to subparagraph (a)(1). The proposed rule change moves the provisions in current Interpretations and Policies .01 and .05 to proposed paragraph (c).

The proposed rule change adds proposed paragraph (b), which states if the Exchange determines to halt trading, all trading in the effected class(es) will be halted, and the System cancels all orders in the class(es) unless a User entered instructions to cancel all orders except GTC and GTD orders or not cancel orders during a halt. C2 disseminates through its trading facilities and over OPRA a symbol with respect to the class(es) indicating that trading in the class(es) has been halted. The Exchange makes available to vendors a record of the time and duration of the halt. Following the technology migration, C2 will have functionality availability that permits Trading Permit Holders to enter a standing instruction regarding the handling of its orders during a halt. The remainder of proposed paragraph (b) is consistent with C2's current practice. The proposed paragraph (b) is also substantively the same as EDGX Rule 20.3(b).

C2's new technology platform is currently the platform for EDGX and other Cboe Affiliated Exchanges, and thus has an established disaster recovery plan. Therefore, the proposed rule change deletes the majority of C2's disaster recovery provisions, contained in current Rules 6.45 and 6.34(f) (regarding mandatory testing), and adopts proposed Rule 6.34, which is substantially similar to EDGX Rule 2.4. Proposed Rule 6.34 states the Exchange maintains business continuity and disaster recovery plans, including backup systems, it may activate to maintain fair and orderly markets in the event of a systems failure, disaster, or other unusual circumstance that may threaten the ability to conduct business on the Exchange, which is consistent with current Rule 6.45(a).

Proposed Rule 6.34(b) states Trading Permit Holders that contribute a meaningful percentage of the Exchange's overall volume must connect to the Exchange's backup systems and participate in functional and performance testing as announced by the Exchange, which will occur at least once every 12 months. The Exchange has established the following standards to identify Trading Permit Holders that account for a meaningful percentage of the Exchange's overall volume and, taken as a whole, the constitute the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of business continuity and disaster recovery plans:

- The Exchange will determine the percentage of volume it considers to be meaningful for purposes of this Rule.
- The Exchange will measure volume executed on the Exchange on a quarterly basis. The Exchange will also individually notify all Trading Permit Holders quarterly that are subject to this paragraph based on the prior calendar quarter's volume.
- If a Trading Permit Holder has not previously been subject to the requirements of this paragraph, such Trading Permit Holder will have until the next calendar quarter before such requirements are applicable.

Proposed Rule 6.34(c) states all Trading Permit Holders may connect to the Exchange's backup systems and participate in testing of such systems. Current Rule 6.45 similarly requires certain Trading Permit Holders designated by the Exchange to connect to back-up systems and participate in testing (current Rule 6.34(f) also requires participation in mandatory systems testing). The proposed rule change designates different but reasonable criteria for determining which Trading Permit Holders must participate in mandatory testing.

Proposed paragraphs (b) and (c) are consistent with Regulation SCI requirements, which apply to certain self-regulatory organizations (including the Exchange), alternative trading systems (''ATSs''), plan processors, and exempt clearing agencies (collectively, ''SCI entities''), and requires these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. The Exchange takes pride in the reliability and availability of its systems. C2 has, and the Cboe Affiliate Exchanges that operate on the

technology platform to which C2 will migrate have, put extensive time and resources toward planning for system failures and already maintain robust business continuity and disaster recovery BC/DR plans consistent with the Rule.

Propose Rule 6.35 describes steps the Exchange may take to mitigate message traffic, based on C2's traffic with respect to target traffic levels and in accordance with C2's overall objective of reducing both peak and overall traffic. First, the System does not send an outbound message [44] in a series that is about to be sent if a more current quote message for the same series is available for sending, but does not delay the sending of any messages (referred to in proposed Rule 6.35 as ''replace on queue''). Second, the System will prioritize price update messages over size update messages in all series and in conjunction with the replace on queue functionality described above. Current C2 Rules contains various provisions the current system uses to mitigate message traffic, such as Rules 6.34(b) (permits the Exchange to limit the number of messages Trading Permit Holders may send) and (c) (newly received quotations and other changes to the BBO may not be disseminated for a period of up to, but no more than, one second), 6.35 (regarding bandwidth packets), and 8.11.[45] The proposed rule change essentially replaces these provisions. C2 does not have unlimited capacity to support unlimited messages, and the technology platform onto which it will migrates contains the above functionality, which are reasonable measures the Exchange may take to manage message traffic and protect the integrity of the System. The proposed change is substantively the same as EDGX Rule 21.14, except it does not include the provision regarding EDGX's ability to periodically delist options with an average daily volume of less than 100 contracts. Additionally, current C2 Rule 6.34(c) (which is being deleted and replaced by the message traffic mitigation provisions in proposed Rule 6.35) permits the Exchange to utilize a mechanism so that newly received quotes and other changes to the BBO are not disseminated for a period of up to but no more than one second in order to control the number of quotes the Exchange disseminates. Cboe Options Rule 5.4, Interpretation and Policy .13 (which is incorporated by reference into C2's Rules) permits the Exchange to delist any class immediately if the class is open for trading on another national securities exchange, or to not open any additional series for trading if the class is solely open for trading on C2. This provision achieves the same purpose as EDGX Rule 21.14(a), and thus it is unnecessary to add the EDGX provision to C2 Rules.

The proposed rule change adds Interpretations and Policies .01 through .04 to Rule 6.50 regarding the order exposure requirement:

- Rule 6.50 prevents a Trading Permit Holder from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Trading Permit Holder was already bidding or offering on the Book. Rule 6.50 imposes an exposure requirement of one second before such orders may execute. However, the Exchange recognizes that it may be possible for a Trading Permit Holder to establish a relationship with a customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency orders as principal. It is a violation of the Rule for a Trading Permit Holder to be a party to any arrangement designed to circumvent this Rule by providing an opportunity for a customer to regularly execute against agency orders handled by the Trading Permit Holder immediately upon their entry into the System.
- It is a violation of Rule 6.50 for Trading Permit Holder to cause the execution of an order it represents as agent on C2 against orders it solicited from Trading Permit Holders and non-Trading Permit Holder broker-dealers, whether such solicited orders are entered into C2 directly by the Trading Permit Holder or by the solicited party (either directly or through another Trading Permit Holder), if the Trading Permit Holder fails to expose orders on C2 as required by the Rule.
- With respect to nondisplayed portions of reserve orders, the exposure requirement of Rule 6.50 is satisfied if the displayed portion of the order is displayed at its displayable price for one second.
- Prior to or after submitting an order to the System, a Trading Permit Holder cannot inform another Trading Permit Holder or any other third party of any of the terms of the order.

While these provisions are not currently stated in the C2 Rules, they are consistent with the C2's interpretation of current Rule 6.50. Current C2 Rule 6.50 is substantively the same as EDGX Rule 22.12, and the following proposed Interpretations and Policies .01 through .04 are substantively the same as EDGX Rule 22.12, Interpretations and Policies .01 through .04.

Current C2 Rule 6.51 describes the Automated Improvement Mechanism (''AIM''), an electronic auction mechanism that provides potential price improvement for eligible incoming orders, and current C2 Rule 6.52 describes the Solicitation Auction Mechanism (''SAM''), an electronic auction mechanism that provides potential price improvement for the all-or-none orders with size of 500 or more. Pursuant to those rules, the Exchange may determine whether to make this functionality available on C2. The proposed rule change deletes these rules (and makes conforming changes throughout the rules, including deleting references to AIM, SAM, and the rules), as this functionality will not be available on C2 following the technology migration.

Chapter 8

The proposed rule change adds paragraph (d) to Rule 8.1, which states a Trading Permit Holder or prospective Trading Permit Holder adversely affected by an Exchange determination under this Chapter 8, including the Exchange's termination or suspension of a Trading Permit Holder's status as a Market-Maker or a Market-Maker's appointment to a class, may obtain a review of such determination in accordance with the provisions of Chapter 19. Current Rule 8.2 contains a similar provision applicable to that Rule; however, the remaining rules in Chapter 8 contain various provision that permit the Exchange to make determinations, which would be subject to review under Chapter 19. Therefore, the Exchange believes it is appropriate to include a similar provision applicable to the entire Chapter 8.

The proposed rule change modifies rule provisions throughout Chapter 8 to clarify the distinction between Market-Maker registration and appointment. A Trading Permit Holder may register as a Market-Maker which is a function available on the Exchange. A Trading Permit Holder registered as a Market-Maker may select appointments to classes in which it agrees to satisfy obligations as a Market-Maker and

[44] This refers to outbound messages being sent to data feeds and OPRA.

[45] The proposed rule change deletes the remainder of current Rule 6.34(b), which states the Exchange may impose restrictions on the use of a computer connected through an API if necessary to ensure the proper performance of the System. The proposed rules do not contain a similar provision; however, to the extent C2 in the future wanted to impose any type of these restrictions, it would similarly submit a rule change for Commission approval.

obtain Market-Maker treatment for its trading activity in those classes.

The proposed rule change renames Rule 8.2 to be Market-Maker Class Appointments, as the rule generally describes how a Market-Maker may obtain appointments to classes, rather than continuing Market-Maker registration. To retain status as a registered Market-Maker, a Market-Maker must satisfy its obligations in its appointed classes (as discussed below) and otherwise stay in good standing, as described in Rule 8.4 (as discussed below). Currently, and following the System migration, Market-Makers may select their own class appointments through an Exchange system. Rule 8.2(b) states a Market-Maker may register in one or more classes in a manner prescribed by the Exchange. The proposed rule change adds detail, which conforms to EDGX Rule 22.3(b), which states a Market-Maker may enter an appointment request via an Exchange-approved electronic interface with the Exchange's systems by 9:00 a.m., which appointment will become effective on the day the Market-Maker enters the appointment request. The Exchange notes Market-Makers on EDGX may select appointments to series, while Market-Makers on C2 will continue to be able to select appointments to a class, as they do today. This proposed process is similar to the one Market-Makers use on C2's current systems for selecting appointments. The proposed rule change deletes the language in current Rule 8.2(d) stating a Market-Maker may change its registered classes upon advance notification to the Exchange, as that is duplicative of proposed Rule 8.2(b), which requires Market-Makers to select appointments prior to a trading day for that appointment to become effective on that trading day.

The proposed rule change deletes the provision in current Rule 8.2(b) that permits the Exchange to register a Market-Maker in one or more classes of option contracts, as the Exchange does not, and does not intend, to impose appointments on Market-Makers. Similarly, the proposed rule change deletes current Rule 8.2(c), which states no option class registration may be made without the Market-Maker's consent to such registration, provided that refusal to accept a registration may be deemed sufficient cause for termination or suspension of a Market-Maker. As noted above, Market-Makers select their own appointments. Rules 8.1(b) and 8.4(b), among others, describe circumstances under which the Exchange may suspend or terminate a Trading Permit Holder's registration as a Market-Maker or a Market-Maker's appointment in a class. Additionally, the proposed rule change deletes the provision permitting it to arrange two or more classes of contracts into the groupings and make registrations to those groupings rather than to individual classes, as the Exchange does not, and does not intend, to create groups of registrations. Market-Makers only select appointments by class.

Proposed Rule 8.2(c) states a Market-Maker's appointment in a class confers the right of the Market-Maker to quote (using order functionality) in that class. On C2's current system, there is separate quote functionality for quoting in appointed classes. Following the technology migration, the new System permits Market-Makers to quote in appointed classes using order functionality (which is the case today on EDGX). A similar provision is contained in current Rule 8.2(d).

The proposed rule change adds proposed Rule 8.2(d), which references the Exchange's ability to limit appointments pursuant to proposed Rule 8.1(c), as described above.

Current Rule 8.2(d) describes the appointment costs of Market-Maker class appointments. The proposed rule change merely moves the description of appointment costs to proposed Rule 8.3.

The proposed rule change deletes current Rule 8.4(a)(2), which states a Market-Maker must continue to satisfy the Market-Maker qualification requirements specified by the Exchange, because it is redundant of the language in subparagraph (a)(1), which states a Market-Maker must continue to meet the general requirements for Trading Permit Holders set forth in Chapter 3 and Market-Maker requirements set forth in Chapter 8. These are generally the only requirements applicable to qualify as a Market-Maker.

Rule 8.5 currently describes general obligations imposed on Market-Makers, while Rule 8.6 describes requirements applicable to Market-Maker quotes (the proposed rule change renames Rule 8.6 to apply to all quote requirements rather than the firm quote requirement, which is still included in proposed Rule 8.6(a)). The proposed rule moves the description of the continuous quoting obligation to proposed Rule 8.6(d) from current Rule 8.5(a)(1), but there are no substantive changes to the continuous quoting obligation. The proposed rule change also adds that the Market-Maker continuous quoting obligations in proposed Rule 8.6(d) apply collectively to Market-Makers associated with the same Trading Permit Holder firm. This is consistent with the Exchange's current interpretation of this obligation, and the proposed rule change merely codifies it in the Rules to provide additional transparency. This structure conforms to EDGX Rules 22.5 and 22.6.[46] The proposed rule change also moves current Rule 8.5(d) to proposed Rule 8.6(e), which permits the Exchange to call on a Market-Maker to submit a single quote or maintain continuous quotes in one or more series of a Market-Maker's appointed class whenever, in the judgment of the Exchange, it is necessary to do so in the interest of maintaining a fair and orderly market. The revised language is substantially the same as EDGX Rule 22.6(d)(2). The proposed rule change also moves current Rule 8.5, Interpretation and Policy .01 to proposed Rule 8.6(d)(4), which provides a Market-Maker has no quoting obligations while the underlying security for an appointed class is in a limit up-limit down state. The revised language is substantially similar to EDGX Rule 22.6(d)(5).

The proposed rule change adds the following quoting obligations to Rule 8.6, which are the same as obligations in EDGX Rule 22.6:

Obligation	Proposed C2 rule	EDGX rule
A Market-Maker's bid (offer) for a series must be accompanied by the number of contracts at the price of the bid (offer) the Market-Maker is willing to buy (sell), and the best bid and best offer entered by a Market-Maker must have a size of at least one contract	8.6(b)	22.6(a)

[46] EDGX rules permit appointments by series, while C2 Rules will continue to permit appointments by class. Ultimately, an EDGX market-maker has the same flexibility to select its appointments, and is subject to the same quoting obligations, as C2 Market-Makers. The proposed rule change does not add the obligation in EDGX Rule 22.5(a)(7), which states a Market-Maker must honor all orders the trading system routes to away markets. The Exchange believes this obligation is unnecessary, as it is true for all orders. Additionally, the Exchange expects Market-Makers will often use Post Only orders to add liquidity to the Book as quotes (including through use of the bulk order port), and those orders, like current quotes today, do not route to other exchanges.

Obligation	Proposed C2 rule	EDGX rule
A Market-Maker that enters a bid (offer) on the Exchange in a series in an appointed class must enter an offer (bid)	8.6(c)	22.6(b)
A Market-Maker is considered an OEF under the Rules in all classes in which the Market-Maker has no appointment. The total number of contracts a Market-Maker may execute in classes in which it has no appointment may not exceed 25% of the total number of all contracts the Market-Maker executes on the Exchange in any calendar quarter	8.6(f)	22.6(c)

The proposed size requirement in proposed Rule 8.6(b) is consistent with the firm quote rule, and, as a bid and offer currently cannot have size of zero, the minimum size requirement is consistent with current C2 System functionality.

While there is no explicit requirement in current C2 rules that a Market-Maker must enter two-sided quotes in appointed series like the one in proposed Rule 8.6(c), the continuous quoting obligation requires a continuous two-sided market (see current Rule 8.5(a)(1)) and general obligations require a Market-Maker to, among other things, compete with other Market-Makers in its appointed classes, update quotes in response to changes market conditions, and maintain active markets in its appointed classes (see current Rule 8.5(a)(3) through (5)), which are consistent with the requirement to enter two-sided quotes. Additionally, current C2 System functionality permits Market-Makers to submit two-sided quotes.

Current C2 Rules contain no specific requirement regarding the percentage of a Market-Makers executed volume that must be within their appointed classes. However, such a requirement is consistent with Market-Makers current obligations to maintain continuous two-sided quotes in their appointed classes for a significant part of the trading day, compete in their appointed classes, and update quotes and maintain active markets in their appointed classes.

The Exchange believes these additional explicit requirements in the rules will continue to offset the benefits a Market-Maker receives in its appointed classes, as the proposed Market-Maker requirements are consistent with current C2 Market-maker obligations and observed quoting behavior, and they are the substantively the same as those in the EDGX rules. The Exchange believes having consistent Market-Maker obligations in the C2 and EDGX rules will simplify the regulatory requirements and increase the understanding of the Exchange's operations for Trading Permit Holders that are Market-Makers on both C2 and EDGX.

The proposed rule change combines Rules 8.8 and 8.10 regarding financial requirements and arrangements of Market-Makers into a single Rule 8.8.

Current Rule 8.11 provides the Exchange may impose an upper limit on the aggregate number of Market-Makers that may quote in each product (the ''CQL''). Current and proposed Rule 8.1(c) permits the Exchange to limit the number of Market-Makers in a class and monitor quote capacity, in a similar manner as EDGX may impose any such limits.[47] Therefore, the proposed rule change deletes Rule 8.11, since it is duplicative.

Currently, there are no Primary Market-Makers (''PMM'') (see Rule 8.13) or Designated Primary Market-Makers (''DPM'') (see Rules 8.14 through 8.21), and C2 does not intend to appoint any PMMs or DPMs in the future. Therefore, the proposed rule change deletes Rules 8.13 through 8.21, as well as the definition of DPM in Rule 1.1. The proposed rule change makes corresponding changes throughout the rules to delete references to those rule numbers and to PMMs and DPMs.

Other Nonsubstantive Changes

The proposed rule change deletes the supplemental rule (a) to Chapter 4 regarding proxy voting. C2 Chapter 4 incorporates Cboe Options Chapter IV by reference. Recently, Cboe Options adopted Cboe Options Rule 4.25, which is substantively identical to the C2 Chapter 4 supplement rule (a). By virtue of the incorporation by reference of Cboe Options Chapter IV, including Rule 4.25, into C2 Chapter 4, Cboe Options Rule 4.25 applies to C2 Trading Permit Holders pursuant to C2 Chapter 4. Therefore, the supplement rule (a) is now duplicative of Cboe Options Rule 4.25 and is no longer necessary.

The proposed rule change deletes Rule 6.20, which is currently reserved and contains no rule text.

The following rules contain language that the C2 board of directors may make certain trading decisions:

- Rule 6.1, Interpretations and Policies .01 and .02 (proposed to be Rule 6.1(b)), which states the board determines trading hours and Exchange holidays.
- Rule 6.4 states the board will establish minimum quoting increments for options traded on the Exchange.
- Rule 6.33, which permits the board to designate persons other than the CEO or President to halt or suspend trading and take other action if necessary or appropriate for the maintenance of a fair and orderly market or the protection of investors, due to emergency conditions.
- Rule 8.1(c), which permits the board or its designee to limit access to the System, for a period to be determined in the board's discretion, pending any action required to address the issue of concern to the board, and to the extent the board places permanent limitations on access to the System on any Trading Permit Holder, such limits will be objectively determined and submitted to the Commission for approval pursuant to a rule change filing.

These decisions relate to Exchange trading and operations, and thus are made by Exchange management, rather than the Board, which generally is not involved in determinations related to day-to-day operations of the Exchange. Therefore, the proposed rule change modifies these provisions to indicate the Exchange will make these determinations rather than the Board. The Exchange notes pursuant to corresponding EDGX rules, EDGX makes those determinations rather than EDGX's board.

The proposed rule change deletes current Rule 6.38, which requires Trading Permit Holders to file with the Exchange trade information covering each Exchange transaction during a business day. Because all transactions on the Exchange are electronic, as soon as a transaction executes on the Exchange, the Exchange has all of the information indicated in Rule 6.38 and thus does not require Trading Permit Holders to submit a separate report with this information, as that is duplicative. The Exchange notes EDGX does not contain a similar rule.

The proposed rule change deletes Rule 6.41, which states a Trading Permit Holder may not bid, offer, purchase, or write on the Exchange any security other than an option contract currently open for trading in accordance with the

[47] *See* EDGX Rule 22.2(c).

provisions of Chapter 5. This rule is unnecessary, as the System would not permit the entry or execution of orders or quotes in securities not open for trading.

The proposed rule change deletes Rule 6.46 regarding Trading Permit Holder Education, because it is duplicative of Rule 3.13.

Attached as Exhibits 3A, 3B, and 3C are the following updated forms:

- C2 Trading Permit Holder Notification of Designated Give-Ups;
- C2 Give Up Change Form; and
- C2 Give Up Change Form for Accepting Clearing Trading Permit Holders.

These forms relate to the manner in which a Trading Permit Holder may designate Clearing Trading Permit Holder to be a Designated Give Up pursuant to Rule 6.30. The proposed rule change eliminates the term acronym from the forms (as noted above, that term will no longer be used from a system perspective following the technology migration) and makes other nonsubstantive clarifications (such as adding defined terms).

The proposed rule change makes various nonsubstantive changes throughout the rules, in addition to nonsubstantive changes described above, to simplify or clarify rules, delete duplicative rule provisions, conform paragraph numbering and lettering throughout the rules, update Exchange department names, revise chapter and rule names, use plain English (*e.g.,* change ''shall'' to ''must,'' change passive voice to active voice), and conform language to corresponding EDGX rules. In these cases, the Exchange intends no substantive changes to the meaning or application of the rules.

Chapter 24 incorporates rules in Cboe Options Chapter XXIV by reference, but states certain rules do not apply to C2. One rule that is excluded is Rule 24.17 (RAES Eligibility in Broad-Based Index Options and Options on Exchange Traded funds on Broad Based Indexes). This rule has been deleted from Cboe Options Chapter XXIV, and thus the proposed rule change deletes the reference to that rule in Chapter 24.

Additionally, the proposed rule change moves certain rules within the C2 rulebook as follows:

Rule	Current C2 rule	Proposed C2 rule	Corresponding EDGX rule
Affiliates, order routing/error accounts/order cancellation and release	3.2(f), 6.36, 6.37, and 6.47.	3.16, 3.17 and 6.15.	2.10, 2.11, and 21.9.
Nullification and adjustment of options transactions including obvious errors	6.15.	6.29.	20.6.
Price binding despite erroneous report	6.16.	6.26(b).	21.11.
Reporting of matched trades to OCC	6.31.	6.27.	21.13.
Contract made on acceptance of bid or offer	6.40.	6.26(a).	21.11.
Trading on knowledge of imminent undisclosed solicited transaction	6.55.	6.51.	N/A.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[48] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[49] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[50] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed rule changes are generally intended to add or align certain system functionality currently offered by EDGX and other Cboe Affiliated Exchanges in order to provide a consistent technology offering for the Cboe Affiliated Exchanges. A consistent technology offering, in turn, will simplify the technology implementation, changes and maintenance by Users of the Exchange that are also participants on Cboe Affiliated Exchanges. The proposed rule changes would also provide Users with access to functionality that is generally available on markets other than the Cboe Affiliated Exchanges and may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users. The proposed rule change does not propose to implement new or unique functionality that has not been previously filed with the Commission or is not available on Cboe Affiliated Exchanges. The Exchange notes that the proposed rule text is generally based on EDGX Rules and is different only to the extent necessary to conform to the Exchange's current rules, retain intended differences based on the Exchange's market model, or make other nonsubstantive changes to simplify, clarify, eliminate duplicative language, or make the rule provisions plain English.

To the extent a proposed rule change is based on an existing Cboe Affiliated Exchange rule, the language of Exchange Rules and Cboe Affiliated Exchange rules may differ to extent necessary to conform with existing Exchange rule text or to account for details or descriptions included in the Exchange's Rules but not in the applicable EDGX rule. Where possible, the Exchange has substantively mirrored Cboe Affiliated Exchange rules, because consistent rules will simplify the regulatory requirements and increase the understanding of the Exchange's operations for Trading Permit Holders that are also participants on EDGX. The proposed rule change would provide greater harmonization between the rules of the Cboe Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes that the proposed amendments will contribute to the protection of investors and the public interest by making the Exchange's rules easier to understand. Where necessary, the Exchange has

[48] 15 U.S.C. 78f(b).

[49] 15 U.S.C. 78f(b)(5).

[50] *Id.*

proposed language consistent with the Exchange's operations on EDGX technology, even if there are specific details not contained in the current structure of EDGX rules. The Exchange believes it is consistent with the Act to maintain its current structure and such detail, rather than removing such details simply to conform to the structure or format of EDGX rules, again because the Exchange believes this will increase the understanding of the Exchange's operations for all Trading Permit Holders of the Exchange.

The proposed order instructions and TIFs not currently available on C2 add functionality currently offered by EDGX in order to provide consistent order handling options across the Cboe Affiliated Exchanges. The proposed rule changes would also provide Users with access to optional functionality that may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users. As explained above, the proposed functionality is substantially similar to functionality on EDGX, and is optional for Users. The proposed rule change would provide greater harmonization between the order handling instructions available amongst the Cboe Affiliated Exchanges, resulting in greater uniformity and less burdensome and more efficient regulatory compliance. With respect to the proposed MTP modifier functionality, the Exchange believes the various proposed modifier options would allow firms to better manage order flow and prevent undesirable executions against themselves, and the proposed change described herein enhances the choices available to such firms in how they do so. The proposed rule change also is designed to support the principles of Section 11A(a)(1) of the Act [51] in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The proposed rule change would also provide Users with access to functionality that may result in the efficient execution of such orders and will provide additional flexibility as well as increased functionality to the Exchange's System and its Users.

The proposed rule change to define ports will reduce complexity and increase understanding of the Exchange's operations for all Users of the Exchange following migration. As the ports are the same as used on certain Cboe Affiliated Exchanges, Users of the Exchange and these other exchanges will have access to similar functionality on all Cboe Affiliated exchanges. As such, the proposed rule change will foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange further believes that the proposed definition of bulk order entry ports to provide that only Post Only Orders with a time in force of DAY or GTD may be entered, modified, or cancelled through such ports will protect investors and the public interest and maintain fair and orderly markets by offering specific functionality through which Users can submit orders that will result in quotations on the Exchange. In particular, the options markets are quote driven markets dependent on liquidity providers to an even greater extent than equities markets. In contrast to the approximately 7,000 different securities traded in the U.S. equities markets each day, there are more than 500,000 unique, regularly quoted option series. Given this breadth in options series the options markets are more dependent on liquidity providers than equities markets; such liquidity is provided most commonly by registered market makers but also by other professional traders. As such, the Exchange believes maintaining specific functionality to maintain quotations on the Exchange through bulk order entry ports will protect investors and the public interest and the maintenance of fair and orderly markets by ensuring that an efficient process to enter and update quotations is available to Exchange Users. The Exchange also believes this is reasonable, as it will establish a marketplace that operates more similar to C2's current market, which is a quote-based market.

The Exchange believes the proposed rule change to modify the minimum increment for XSP options with those for SPY options perfects the mechanism for a free and open market and a national market system because both products are based, in some manner, on 1/10th the price of the S&P 500 Index, and therefore it makes sense to have the same minimum increments of bids and offers for both. This proposed rule change is also substantively the same as a Cboe Options rule, as discussed above.

The proposed Opening Process is designed to promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of, a free and open market system because it would align with the EDGX Opening Process as it relates to: Which orders may participate in the process, how the price of the opening transaction is determined; and the process for late openings and re-openings. Conforming the C2 Opening Process to the EDGX opening process will contribute to the protection of investors and the public interest by avoiding investor confusion and providing consistent functionality across Cboe Affiliated Exchanges.

Following the technology migration, orders and quotes will generally be allocated in the same manner as they are today on C2—either pursuant to pro-rata or price-time priority. Deleting other priority overlays that are not used and will not be used on C2 protects investors by eliminating potential confusion regarding which rules apply to trading on C2. The proposed change regarding how the System rounds the number of contracts when they cannot be allocated proportionally in whole numbers pursuant to the pro-rata algorithm (which previously only addressed the situation if there one additional contract for two market participants) and proposed aggregated pro-rata algorithm (which previously was silent on this matter) adds detail to the rules regarding the allocation process and provides a fair, objective manner for rounding and distribution in all situations in which the number of contracts many not be allocated proportionally in whole numbers. Rounding and distributing contracts in the proposed manner is also substantively the same as an EDGX rule, as discussed above.

The Exchange believes that the general provisions regarding the trading of complex orders provide a clear framework for trading of complex orders in a manner consistent with EDGX. This consistency should promote a fair and orderly national options market system. The proposed execution and priority rules will allow complex orders to interact with interest in the Simple Book and, conversely, interest on the Simple Book to interact with complex orders in an efficient and orderly manner. Consistent with C2's current rules and the rules of other exchanges, proposed Rule 6.13(f)(2) will not execute a complex order at a net price ahead of orders on the Simple Book without improving the BBO on at least one component of the complex strategy by at least $0.01. Additionally, before executing against another complex order, a complex order on the Exchange will execute first against orders on the Simple Book if that would result in the best price prior to executing against complex orders on the COB. The complex order priority pursuant to which complex orders will trade against

[51] 15 U.S.C. 78k–1(a)(1).

the leg markets prior to execution against complex orders is consistent with the complex order priority currently available on C2 and ensures protection of the leg markets.

The Exchange proposes that complex orders may be submitted as limit orders and market orders, and orders with a Time in Force of GTD, IOC, DAY, GTC, or OPG, or as a Complex Only order, COA-eligible or do-not-COA order. In particular, the Exchange believes that limit orders, GTD, IOC, DAY, GTC, and OPG orders all provide valuable limitations on execution price and time that help to protect Exchange participants and investors in both the Simple Book and the COB. In addition, the Exchange believes that offering participants the ability to utilize MTP Modifiers for complex orders in a similar way to the way they are used on the Simple Book provides such participants with the ability to protect themselves from inadvertently matching against their own interest. As discussed above, because complex orders do not route and may not be Post Only, all complex orders are Book Only, which is consistent with current C2 complex order functionality. The proposed rule change also clarifies that Attributable/Non-Attributable instructions are available for complex orders; however, these instructions merely apply to information that is displayed for the orders but do not impact how they execute.

The Exchange believes that permitting complex orders to be entered with these varying order types and modifiers will give the Exchange participants greater control and flexibility over the manner and circumstances in which their orders may be executed, modified, or cancelled, and thus will provide for the protection of investors and contribute to market efficiency.

In particular, the Exchange notes that while both the Complex Only Order and the do-not-COA instruction may reduce execution opportunities for the entering Market-Maker or User, respectively, similar features are already offered by EDGX (and C2 with respect to do-not-COA) in connection with complex order functionality and that they are reasonable limitations a Market-Maker or User, respectively, may wish to include on their order in order to participate on the COB.

Evaluation of the executability of complex orders is central to the removal of impediments to, and the perfection of, the mechanisms of a free and open market and a national market system and, in general, the protection of investors and the public interest. The proposed evaluation process pursuant to proposed Rule 6.13(i) ensures that the System will capture and act upon complex orders that are due for execution. The regular and event-driven evaluation process removes potential impediments to the mechanisms of the free and open market and the national market system by ensuring that complex orders are given the best possible chance at execution at the best price, evaluating the availability of complex orders to be handled in a number of ways as described in this proposal. Any potential impediments to the order handling and execution process respecting complex orders are substantially removed due to their continual and event-driven evaluation for subsequent action to be taken by the System. This protects investors and the public interest by ensuring that complex orders in the System are continually monitored and evaluated for potential action(s) to be taken on behalf of investors that submit their complex orders to the Exchange.

If a complex order is not priced equal to, or better than, the SBBO or is not priced to improve other complex orders resting at the top of the COB, the Exchange does not believe that it is reasonable to anticipate that it would generate a meaningful number of COA Responses such that there would be price improvement of the complex order's limit price. Promoting the orderly initiation of COAs is essential to maintaining a fair and orderly market for complex orders; otherwise, the initiation of COAs that are unlikely to result in price improvement could affect the orderliness of the marketplace in general.

The Exchange believes that this removes impediments to and perfects the mechanisms of a free and open market and a national market system by promoting the orderly initiation of COAs, and by limiting the likelihood of unnecessary COAs that are not expected to result in price improvement.

The Exchange believes the proposed maximum 500 millisecond Response Time Interval promotes just and equitable principles of trade and removes impediments to a free and open market because it allows sufficient time for Trading Permit Holders participating in a COA to submit COA Responses and would encourage competition among participants, thereby enhancing the potential for price improvement for complex orders in the COA to the benefit of investors and public interest. The Exchange believes the proposed rule change is not unfairly discriminatory because it establishes a Response Time Interval applicable to all Exchange participants participating in a COA, which is the same maximum Response Time Interval on EDGX.

The Exchange again notes that it has not proposed to limit the frequency of COAs for a complex strategy and could have multiple COAs occurring concurrently with respect to a particular complex strategy. The Exchange represents that it has systems capacity to process multiple overlapping COAs consistent with the proposal, including systems necessary to conduct surveillance of activity occurring in such auctions. Further, EDGX may currently have multiple complex auctions in the same strategy run concurrently. EDGX Rule 21.20, Interpretation and Policy .02 similarly permits multiple complex auctions in the same strategy to run concurrently. The Exchange does not anticipate overlapping auctions necessarily to be a common occurrence, however, after considerable review, believes that such behavior is more fair and reasonable with respect to Trading Permit Holders who submit orders to the COB because the alternative presents other issues to such Trading Permit Holders. Specifically, if the Exchange does not permit overlapping COAs, then a Trading Permit Holder who wishes to submit a COA-eligible order but has its order rejected because another COA is already underway in the complex strategy must either wait for such COA to conclude and re-submit the order to the Exchange (possibly constantly resubmitting the complex order to ensure it is received by the Exchange before another COA commences) or must send the order to another options exchange that accepts complex orders.

The Legging restrictions protects investors and the public interest by ensuring that Market-Makers and other liquidity providers do not trade above their established risk tolerance levels, as described above. Despite the enhanced execution opportunities provided by Legging, the Exchange believes it is reasonable and consistent with the Act to permit Market-Makers to submit orders designated as Complex Only Orders that will not leg into the Simple Book. This is analogous to functionality on EDGX,[52] as well as other types of functionality offered by the Exchange that provides Trading Permit Holders the ability to direct the Exchange not to route their orders or remove liquidity from the Exchange. Similar to such analogous features, the Exchange believes that Market-Makers may utilize Complex Only Order functionality as part of their strategy to maintain additional control over their executions,

[52] *See* EDGX Rule 21.20(b)(1).

in connection with their attempt to provide and not remove liquidity, or in connection with applicable fees for executions.

Based on the foregoing, the Exchange does not believe that the proposed complex order functionality raises any new or novel concepts under the Act, and instead is consistent with the goals of the Act to remove impediments to and to perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

The proposed rule change regarding price adjust is consistent with linkage rules that require exchanges to reasonably avoid displaying quotations that lock or cross any Protected Quotation, as well as EDGX Rule 21.1(i). The proposed functionality will assist Users by displaying orders and quotes at permissible prices.

The Exchange believes the additional and enhanced price protection mechanisms and risk controls will protect investors and the public interest and maintain fair and orderly markets by mitigating potential risks associated with market participants entering orders and quotes at unintended prices, and risks associated with orders and quotes trading at prices that are extreme and potentially erroneous, which may likely have resulted from human or operational error. While the Exchange currently offers many similar protections and controls, as described above, the Exchange believes Users will benefit from the additional functionality that will be available following the technology migration. The Exchange notes the proposed rule change does not establish outer boundaries or limits to the levels at which mechanisms can be set. The Exchange believes this is reasonable and necessary to afford the Exchange and Users flexibility to establish and modify the default parameters in order to protect investors and the public interest, and maintain a fair and orderly market. The Exchange notes any Exchange-determined parameters will always be available on C2's website via specification or Notice. The Exchange notes the proposed rule changes related to price protection mechanisms and risk controls are substantially the same as EDGX rules and specifications, as discussed above. The proposed rule change is also similar to current C2 and Cboe Options Rules.

The Exchange believes the proposed additional explicit Market-Maker requirements in the rules will continue to offset the benefits a Market-Maker receives in its appointed classes, as the proposed Market-Maker requirements are consistent with current C2 Market-maker obligations and observed quoting behavior, and they are the substantively the same as Market-Maker requirements in the EDGX rules.

The Exchange believes the proposed rule change regarding information to be provided to Users in transaction reports is consistent with current practice and provides market participants with additional transparency regarding these reports. It is also consistent with other Exchange and options industry practices, including the fact that clearing information available through OCC already provides contra-party information as well as the ability of a User on the Exchange to disclose its identify when quoting. The Exchange believes this is consistent with the Act, as it is designed to foster cooperation and coordination with persons engaged in clearing, settling, processing information with respect to, and facilitating transactions in securities.

The proposed rule change makes various nonsubstantive changes throughout the rules, in addition to nonsubstantive changes described above, will protect investors and benefit market participants, as these changes simplify or clarify rules, delete duplicative rule provisions, conform paragraph numbering and lettering throughout the rules, update Exchange department names, use plain English, and conform language to corresponding EDGX rules.

As described above, the fundamental premise of the proposal is that the Exchange will operate its options market in a similar manner to its affiliated options exchange, EDGX (which as discussed above in the purpose section, is similar in many ways to how C2 currently operates), with the exception of the priority model and certain other limited differences. The basis for the majority of the proposed rule changes in this filing are the approved rules of EDGX, which have already been found to be consistent with the Act. For instance, the Exchange does not believe that any of the proposed order types or order type functionality or allocation and priority provisions raise any new or novel issues that have not previously been considered.

Thus, the Exchange further believes that the functionality that it proposes to offer is consistent with Section 6(b)(5) of the Act, because the System upon the technology migration is designed to continue to be efficient and its operation transparent, thereby facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market and a national market system.

Proposed Rule 3.16 (related to Exchange affiliations with Trading Permit Holders) and 3.17 (related to Cboe Trading providing Outbound Router services) are substantially similar to EDGX Rule 2.10 and 2.11. Additionally, proposed Rule 3.16 incorporates the provisions in current C2 Rule 3.2(f) related to restrictions on Exchange affiliations with Trading Permit Holders. As noted above, the provisions related to Exchange affiliations with Trading Permit Holders (including exceptions to any restrictions in the Rules) are consistent with the governing documents of C2. Additionally, the Commission recently approved the Exchange affiliation with Cboe Trading related to its performing inbound routing services for C2. The Exchange believes proposed Rule 3.17 promotes the maintenance of a fair and orderly market, the protection of investors and the public interest, and is in the best interests of the Exchange and its Trading Permit Holders as it will allow the routing of orders to Trading Centers (including affiliated exchanges BZX Options and EDGX Options) from the Exchange in the same manner as certain Cboe-affiliated exchanges currently route orders. Moreover, in meeting the requirements of Rule 3.17 (*i.e.,* regulation as a facility, FINRA acting as the designated examining authority, optional use of Cboe Trading as an outbound router, restrictions on business of Cboe Trading, procedures and internal controls, cancellation of orders, maintenance of error account), the Exchange believes it will have mechanisms in place that protect the independence of the Exchange's regulatory responsibility with respect to Cboe Trading, as well as demonstrates that Cboe Trading cannot use any information that it may have because of its affiliation with the Exchange to its advantage. This will help prevent an unfair burden on competition and unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 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 reiterates that the proposed rule change is being proposed in the context of the technology integration of the Cboe Affiliated Exchanges. Thus, the Exchange believes this proposed rule change is necessary to permit fair competition among national securities exchanges. In addition, the Exchange believes the proposed rule change will

benefit Exchange participants in that it will provide a consistent technology offering for Users by the Cboe Affiliated Exchanges. Following the technology migration, the C2 System, as described in this proposed rule change, will apply to all Users and order and quotes submitted by Users in the same manner. As discussed above, the basis for the majority of the proposed rule changes in this filing are the approved rules of EDGX, while a few other changes are based on approved rules of Cboe Options and BZX, which have already been found to be consistent with the Act.

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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [53] and Rule 19b–4(f)(6) [54] thereunder. 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 [55] and Rule 19b–4(f)(6) [56] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [57] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[58] the Commission may designate a shorter time if such action is consistent with protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative prior to the proposed C2 technology migration on May 14, 2018. In support of its waiver request, the Exchange states that many of the proposed rule changes are based on rules of EDGX Options and BZX Options and the proposed rule changes will align much of C2's System with that of those other Cboe Affiliated Changes, which will simplify the User experience for those firms that are members of one or more of the other Cboe Affiliated Exchanges, and also will promote stability across the affiliated trading platforms. The Commission notes that, because migrating C2's trading platform technology over to EDGX Options technology is a material event, the Exchange has publicized its plans well in advance by issuing periodic updates to Trading Permit Holders regarding the technology migration changes and the anticipated timeline in order to enable Trading Permit Holders to make and test system changes at the firm and User level to accommodate the transition and ensure uninterrupted access to the Exchange after the migration. In addition, as described in detail above, the Exchange's proposal does not raise any new or novel issues, as the nature of the changes are connected to the migration of C2 to the existing technology and functionality of the EDGX Options platform. Therefore, the Commission believes that waving the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposal operative on May 11, 2018.[59]

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–C2–2018–005 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–C2–2018–005. 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–C2–2018–005 and should be submitted on or before June 6, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2018–10417 Filed 5–15–18; 8:45 am]

BILLING CODE 8011–01–P

[53] 15 U.S.C. 78(b)(3)(A).

[54] 17 CFR 240.19b–4(f)(6).

[55] 15 U.S.C. 78s(b)(3)(A).

[56] 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.

[57] 17 CFR 240.19b–4(f)(6).

[58] 17 CFR 240.19b–4(f)(6).

[59] For purposes only of waving the 30-day operative delay, the Commission has considered the purposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[60] 17 CFR 200.30–3(a)(12).

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